

Michigan Supreme Court

MICHIGAN JUDICIAL INSTITUTE

JUVENILE PROBATION OFFICER
AND
CASEWORKER

SELF-INSTRUCTIONAL
MANUAL



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MICHIGAN JUDICIAL INSTITUTE

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Revised June 2021

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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.

MJl, in conjunction with juvenile [court] judges, administrators, probation officers, and caseworkers developed this self-instructional manual to address core competencies. The manual is updated annually. Substantive and procedural changes that occurred during the previous year are included.

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

Hon. Mabel Mayfield

Berrien County Probate Court
St. Joseph

Mr. David Batdorf-Barnes

Oakland County Family Court
Pontiac

Ms. Sandra Metcalf

Ottawa County Family Court
West Olive

Mr. David Buck

30th Circuit Court-Family Division
Lansing

Hon. Frederick Mulhauser

Emmet/Charlevoix Probate District 7
Petoskey

Mr. Felix Brooks

Kalamazoo County Juvenile Division
Kalamazoo

Mr. William Newhouse

State Court Administrative Office
Lansing

Ms. Carla Grezeszak

23rd Circuit Court-Family Division
Tawas City

Mr. Robert Nida

Barry County Trial Court
Hastings

Ms. Mary Hickman

Charlevoix/Emmet Probate District 7
Charlevoix

Ms. Jill Bade

Genesee County-Family Division
Flint

SPECIAL NOTE REGARDING COVID-19:

Trial Court Procedures Affected by Michigan Supreme Court Administrative Order

At the time this manual is being published, we appear to be emerging from the COVID-19 pandemic, it is important to remember that trial courts are still operating under several Michigan Supreme Court Administrative Orders.

The Supreme Court's COVID-19 webpage will be updated as new information becomes available. See:

<https://courts.michigan.gov/News-Events/covid19-resources/Pages/COVID-19.aspx>.

The topics below are of special consideration to juvenile probation officers and caseworkers:

Adjournments:

Although adjournments are permitted when necessary, courts are directed to implement measures to ensure all matters may proceed as expeditiously as possible under the circumstances, given the particular public health conditions in each locality and the technology resources and staffing situations in place at each court.

[Administrative Order No. 2020-6](#) requires all Michigan judges to make a good-faith effort to conduct proceedings remotely whenever possible and authorizes judicial officers to conduct remote proceedings (whether physically present in the courtroom or elsewhere) using two-way interactive videoconferencing technology or other remote participation tools under the following conditions:

- any such procedures must be consistent with a party's Constitutional rights;
- the procedure must enable confidential communication between a party and the party's counsel;
- access to the proceeding must be provided to the public either during the proceeding or immediately after via access to a video recording of the proceeding, unless the proceeding is closed or access would otherwise be limited by statute or rule; and
- the procedure must enable the person conducting or administering the procedure to create a recording sufficient to enable a transcript to be produced subsequent to the activity.

Courts must continue to expand the use of remote proceedings (either by video or telephone) as much as possible to reduce any backlog and dispose of new cases efficiently and safely. Administrative Order No. 2020-19(2). However, as the use of remote proceedings are expanded, courts must continue to verify that participants are able to proceed remotely, and should permit some participants to appear remotely even if all participants are not able to do so.

Pretrial Release:

In addition to giving consideration to other obligations imposed by law, trial courts are urged to take into careful consideration public health factors arising out of the present state of emergency . . . in making pretrial release decisions, including in determining any conditions of release.

Probation Conditions:

Trial courts are urged to take into careful consideration public health factors arising out of the present state of emergency in determining any conditions of probation.

Title IV-E Funding:

Despite the public health crisis that exists, it is critical that child welfare agencies and courts work together to ensure that the requisite judicial proceedings continue during this time of uncertainty, and to take all measures possible to continue ensuring that parents and children receive services and treatment.

In the event there is a conflict between any protocol or procedure in this manual and the above Administrative Orders, the Administrative Orders are to be followed.

HISTORY AND PHILOSOPHY OF THE JUVENILE DIVISION

History

Sixteenth and Seventeenth Century Europe

Children were recognized only when they could contribute to the economic good of the family or village. Youth offenders were treated as harshly as adults. Severe penalties were given for even minor offenses. For example, in seventeenth century England, capital punishment was the penalty for over 200 crimes.

Eighteenth and Nineteenth Century

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.

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 believed the roots of juvenile delinquency were 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. 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 were not recognized.

Up through the 1920s, biological, and psychological theories became the main approaches to delinquency. Inadequate parenting was viewed as a crucial factor. Delinquent behavior was simply an indicator of a 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, experts insisted that delinquency could only be understood by examining both individual and external factors; that delinquency is a response to 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 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. So, 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

From the 1960s through the 1980s, a series of dramatic changes occurred.

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 today were decided by the U.S. Supreme Court during this period, including:

- 1) *Kent v United States*, 383 US 541 (1966) 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) 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) *In re Winship*, 397 US 385 (1970). The right to an acquittal unless [there is proof] beyond a reasonable doubt as to the juvenile's guilt/delinquency.
- 4) *McKeiver v Pennsylvania*, 403 US 528 (1971). A trial by jury is not constitutionally required in the adjudicative phase of a state juvenile court delinquency proceeding.
- 5) *Breed v Jones*, 421 US 519 (1975). Protection from being tried twice for the same offense (double jeopardy).
- 6) *Fare v Michael C* 442 US 707 (1979). A probation officer's presence during a police interrogation is not the same as a lawyers', so questioning can continue.
- 7) *Schall v Martin*, 467 US 253 (1984). Preventive detention serves a legitimate state objective, and is constitutional.

The 1970 Juvenile Justice and Delinquency Prevention Act addressed deinstitutionalizing status offenders, separation of incarcerated juveniles from adults, delinquency prevention, and development of community-based alternatives.

By the 1980s however, the juvenile justice system came under pressure as being soft on crime amid concerns that serious juvenile crime was on the rise, so we needed harsher penalties. Even in Michigan, statutory reforms permitted waiver and/or transfer of juvenile cases to adult criminal courts.

During the 1990s, more interest in a "balanced approach" to juvenile justice arose; focusing on community protection, individual accountability, and competency development/treatment. This movement is known as *Balanced and Restorative Justice*.

The Twenty-First Century

The last two decades have seen more changes, including:

- graduated sanctions;
- restitution or community service;
- increasing victim satisfaction and victim-offender mediation;
- services to address substance use, mental health, improved school achievement, strengthened family supports, and community inclusiveness;
- addressing 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;
- 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;
- emphasis on evidence-informed practices;
- development and proliferation of juvenile drug and mental health courts;
- the U.S. Supreme Court determining that sentencing a juvenile to life without the possibility of parole constitutes *cruel and unusual* punishment. *Miller v Alabama* 567 US 460 (2012). See also, *Montgomery v Louisiana*, 577 US__ (2016), which extended retroactivity to *Miller v Alabama*. See also *People v Garay*, ___ Mich ___, ___ (2020).

2019 Raise the Age Legislation

A series of bipartisan bills were passed that amend existing provisions of, or add new sections to, various acts to raise the age of who is considered to be a juvenile for purposes of adjudication or prosecution of criminal offenses, and the age that determines where a juvenile is to be detained, from children under 17 years of age to those under 18. The legislation goes into effect October 1, 2021.

Raise the Age Bill Package

In 2020, the legislature recently enacted what is commonly known as the Raise the Age bill package. The primary point to remember about the raise the age package is that any current statute that references “17 years of age” will, as of October 1, 2021, be “18 years of age”. This manual uses the current statutory language in effect as of May, 2021.

The highlights of the Public Acts are summarized below.

- [Public Act 97 of 2019 \(SB 102\) – Raise the Age Fund](#)
- [Public Act 99 of 2019 \(HB 4134 – Juvenile Competency\)](#)
- [Public Act 100 of 2019 \(HB 4135\) – Holmes Youthful Trainee Act \(HYTA\)](#)
- [Public Act 101 of 2019 \(HB 4136\) – Juvenile Diversion Act](#)
- [Public Act 102 of 2019 \(HB 4140\) – Juvenile Code, Technical Amendments – Prohibition Regarding Lock-Up](#)
- [Public Act 103 of 2019 \(HB 4142\) – Transfer of Criminal Case to Family Division](#)
- [Public Act 104 of 2019 \(HB 4143\) – Prohibition on Juvenile Confinement or Transportation with Adults](#)
- [Public Act 105 of 2019 \(HB 4145\) – Confinement of Designated and Waived Juveniles in the County Jail](#)

- Public Act 106 of 2019 (HB 4443) – Code of Criminal Procedure, Specified Juvenile Violations
- Public Act 107 of 2019 (HB 4452) – Circuit Court, Waiver Jurisdiction
- Public Act 108 of 2019 (SB 84) – Michigan Indigent Defense Commission (MIDC)
- Public Act 109 of 2019 (SB 90) – Juvenile Code, Juvenile Definition
- Public Act 110 of 2019 (SB 93) – Youth Rehabilitation Services Act
- Public Act 111 of 2019 (SB 97) – Juvenile Code, Technical Amendments – Sight and Sound Separation
- Public Act 112 (SB 99) – Personal Protection Orders
- Public Act 113 of 2019 (SB 100) – Juvenile Code, Raise the Age of Jurisdiction
- Public Act 114 of 2019 (SB 101) – Child Care Fund Reimbursement Rate

**Public Act 97 of 2019 (SB 102) – Raise the Age Fund ([view bill](#))
*effective 10/01/21***

This Act amends the Social Welfare Act and creates new section MCL 400.117i. The bill creates a “raise the age fund” within the department of the state treasury, and makes the Michigan Department of Health and Human Services (MDHHS) the administrator of the fund. The department is to expend money from the fund to cover the costs of expenses incurred due to raising the age of criminal responsibility, which are not covered by the child care fund.

Costs eligible for reimbursement by the Raise the Age fund are for those expenses incurred associated with exercising jurisdiction over juveniles who were 17 years of age at the time of the offense. Similar to Child Care Fund expenditures, courts will be required to report to MDHHS the expenditures for which the court is seeking reimbursement from the Raise the Age Fund. As such, this will require courts to separately track expenditures for 17-18 year old juvenile population they are servicing.

Lastly, the Act also creates an administrative appeal for the courts should they disagree with a MDHHS determination regarding their reimbursement request. The appeal process is governed by the Administrative procedures Act (MCL 24.201 – 24.328).

**Public Act 99 of 2019 (HB 4134) - Juvenile Competency ([view bill](#))
*effective 10/01/21***

This Act amends the Mental Health Code (MCL 330.2060a) to redefine the term “juvenile” to include those individuals who are under 18 – instead of 17 – years of age for purposes of juvenile competency proceedings.

**Public Act 100 of 2019 (HB 4135) – Holmes Youthful Trainee Act (HYTA) ([view bill](#))
*effective 10/01/21***

This Act amends the Code of Criminal Procedure (MCL 762.11) to revise the eligibility requirements for assignment of a defendant to the Holmes Youthful Trainee status. The bill allows assignment to HYTA for defendants age 18-24. Previously, a defendant could be age 17 and assigned to HYTA.

**Public Act 101 of 2010 (HB 4136) – Juvenile Diversion Act ([view bill](#))
*effective 10/01/21***

This Act amends the Juvenile Diversion Act (MCL 722.822 and 722.828) to redefine the term minor to mean an individual that is less than 18 years of age instead of 17 years of age. Additionally, it alters the length of time a juvenile diversion record needs to be retained. Instead of destroying within 28 days of the juveniles 17th birthday, the records are now to be destroyed within 28 days of their 18th birthday.

**Public Act 102 of 2019 (HB 4140) – Juvenile Code, Technical Amendments – Prohibition Regarding Lock-Up ([view bill](#))
*effective 10/01/21***

This Act makes technical amendments to portions of the Juvenile Code (MCL 712A.16, 18, and 18i). The Act **prohibits** a juvenile taken into custody who is under 18 – instead of 17 – years of age to be confined in a police station, jail, or lock-up facility with adult criminals. The remainder of the bill makes other technical reference amendments.

**Public Act 103 of 2019 (HB 4142) – Transfer of Case to Family Division ([view bill](#))
*effective 10/01/21***

This Act amends the Code of Criminal Procedure (MCL 764.27) to require that an individual less than 18 years of age—instead of 17—who is arrested shall be immediately taken before the family division of the circuit court. Additionally, except for cases in which the juvenile has been waived to circuit court, the Act requires the transfer of a criminal case to the family division, if it is discovered that the individual is less than 18—instead of 17—years of age. This provision will have implications for cases pending in district where the defendant is less than 18 years old on the effective date of the act.

**Public Act 104 of 2019 (HB 4143) – Prohibition on Juvenile Confinement or Transportation with Adults ([view bill](#))
*effective 10/01/21***

This Act amends the Michigan Penal Code (MCL 750.139a) to prohibit individuals under the age of 18—instead of 16—to be confined in the same space with an adult or be transported in a vehicle with an adult offender.

**Public Act 105 of 2019 (HB 4145) – Confinement of Designated and Waived Juveniles in the County Jail ([view bill](#))
*effective 10/01/21***

This Act amends the Code of Criminal Procedure (MCL 764.27a) to raise the age of the juvenile that may be held in the county jail pending trial from 17 to 18. The statutory provision allows the court to confine in the county jail pending trial, a juvenile who is either waived and subject to the general jurisdiction of the circuit court, or a juvenile who is designated to be tried as an adult in the family division. The Act also makes technical amendments to the age references regarding sight and sound separation of juveniles that are confined in the county jail.

**Public Act 106 of 2019 (HB 4443) – Code of Criminal Procedure, Specified Juvenile Violations ([view bill](#))
*effective 10/01/21***

This Act amends the Code of Criminal Procedure (MCL 764.1f) to allow a prosecutor to authorize the filing of a complaint and warrant in the district court in regards to a juvenile less than 18 – instead of 17 – years old who is alleged to have committed a specified juvenile violation.

**Public Act 107 of 2019 (HB 4452) – Circuit Court, Waiver Jurisdiction ([view bill](#))
*effective 10/01/21***

This Act amends the Revised Judicature Act to provide that the circuit court has jurisdiction to hear and determine a specified juvenile violation if committed by a juvenile age 14 but less than 18 – instead of 17 – years old. This provision allows for the circuit court of general criminal jurisdiction to process juvenile waiver cases.

**Public Act 108 of 2019 (SB 84) – Michigan Indigent Defense Commission ([view bill](#))
*effective 10/01/21***

This Act amends that Michigan Indigent Defense Commission Act (MCL 780.983) to change the definition of “adult” to an individual who is older than 18 – instead of 17 – years of age. The definition of adult is amended to also include an individual who is under 18 – instead of 17 – years of age, under the following circumstances:

- Prosecutor files a petition to waive the juvenile to circuit court;
- Prosecutor files the petition as a prosecutor designated case in family division;
- Prosecutor files a request asking the court to designate the juvenile to be tried as an adult in family division;
- Prosecutor authorizes the filing of a complaint and warrant against the juvenile in district court.

**Public Act 109 of 2019 (SB 90) – Juvenile Code, Juvenile Definition ([view bill](#))
*effective 10/01/21***

This Act amends the Juvenile Code (MCL 712A.1 and 712A.3) to change the definition of a juvenile to a person who is under 18 – instead of 17 – years of age. Additionally, the Act makes an amendment that would require the transfer of a criminal case to family division if the court discovered the juvenile was under age 18 – instead of 17 – at the time of the offense. This is a similar provision that is found in the Code of Criminal Procedure, which was amended per Public Act 103 discussed above.

**Public Act 110 of 2019 (SB 93) – Youth Rehabilitation Services Act ([view bill](#))
*effective 10/01/21***

This Act amends the Youth Rehabilitation Service Act (MCL 803.302) to redefine the term “public ward.” This term is used in context of youth that are committed to the care of MDHHS in a delinquency case. These youth are often referred to as “Act 150 wards.” The amendment allows for the commitment of a youth who is at least 12 years old (standard delinquency) or 14 years old (waived to circuit court) and the offense occurred before their 18th birthday, instead having to occurred before their 17th birthday.

**Public Act 111 of 2019 (SB 97) – Juvenile Code, Technical Amendments – Sight and Sound Separation ([view bill](#))
*effective 10/01/21***

This Act makes technical amendments to portions of the Juvenile Code (MCL 712A.14 and 15). The Act requires a juvenile under 18 – instead of 17 – years of age to be separated and have no verbal, visual, or physical contact with an adult prisoner/inmate if the juvenile is being held in a jail or other detention facility.

The Act also removed a statutory section addressing the court’s use of foster care home services that was previously date dependent and therefore no longer applicable.

**Public Act 112 of 2019 (SB 99) – Personal Protection Orders ([view bill](#))
*effective 10/01/21***

This Act amends the Code of Criminal Procedure (MCL 764.15b) to require that a personal protection order (PPO) state on its face that a person age 18—instead of 17— or older will subject to criminal contempt for violation. Additionally, a person less than 18 years of age will be subject to a juvenile disposition.

Public Act 113 of 2019 (SB 100) – Juvenile Code, Raise the Age of Jurisdiction ([view bill](#)) *effective 10/01/21*

This Act amends the Juvenile Code (MCL 712A.2) to raise the age of jurisdiction of the family division. The court will have jurisdiction over juveniles who are under age 18, instead of age 17.

Public Act 114 of 2019 (SB 101) – Child Care Fund Reimbursement Rate ([view bill](#)) *effective 10/01/21*

This Act amends the Social Welfare Act (MCL 400.117a) to address the payment of costs incurred for the new juvenile population ages 17-18 coming into the court system. The Act provides for the following:

- Beginning on October 1, 2021, the state will pay 100 percent of the cost to provide services to juveniles coming within the court's jurisdiction who were at least 17 but less than 18 years old at the time of the offense. However, there is no change in the funding mechanism for juveniles under age 17 at the time of the offense.
- Beginning on October 1, 2025, the state and the county will share the cost of child care fund eligible expenses for all juveniles, including those who were age 17-18 at the time of the offense. Currently, eligible expenditures are shared between the county and state on a 50/50 basis. This bill amends the statute to set a new rate that is to be determined using data from actual expenditures during the two preceding years. The established rate will be percentage result of the following equation:

<p>**Based on Data for FY 2022-2024</p> <p>Total State Expenditures Juveniles UNDER 17 at time of offense, <i>at the state's reimbursement rate</i></p> <p style="text-align: center;">+</p> <p>Total Expenditures for Juveniles age 17</p> <p style="text-align: center;">----- (divided by) -----</p> <p>Total Expenditures for ALL eligible Juveniles</p>

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*?

What were the holdings in *Miller v Alabama*? *Montgomery v Louisiana*? *People v Garay*?

How will the “Raise the Age” statutes impact juvenile justice?

The Michigan Judicial System and Role of the Probation Officer

Michigan's "One Court of Justice" was created in 1963 by Article VI § 1 of the Michigan Constitution; consisting of one Supreme Court, one Court of Appeals, one trial court (known as the circuit court), probate court (§ 15), and trial courts of limited jurisdiction.

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 is an "intermediate" appellate court. Generally, decisions from final orders of a circuit and probate court and some agency orders may be appealed to the court as a matter of right. Other lower court or tribunal decisions may be appealed only by application for leave to appeal, i.e., with permission of the court.

Court of Claims

The Court of Claims is part of the Michigan Court of Appeals: The Court of Claims jurisdiction is limited to hearing certain claims against the State of Michigan.

TRIAL COURTS

Circuit Court

The circuit court is the trial court of general jurisdiction in Michigan because of its very broad powers. 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.

Family Division

The family division is part of the circuit court and has exclusive jurisdiction over all family matters such as, juvenile delinquency and status offense cases, divorce, custody, parenting time, support, paternity, adoptions, name changes, 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. According to the State Court Administrative Office Caseload Report: In 2019¹, the statewide active delinquency caseload was just under 37,000.

¹ See: State Court Administrative Office Caseload Report 2019 [statewide.pdf \(michigan.gov\)](#)

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 handles all misdemeanors where punishment does not exceed one year in jail; including arraignment, sentence, setting and acceptance of bail, and conducts preliminary examinations in felony cases. Civil infractions are also handled in district court.

Municipal Court

Municipal court civil jurisdiction is limited to \$1500. Its criminal jurisdiction is similar to district court.

For an overview of Michigan Courts see:

<https://mjieducation.mi.gov/documents/resources-for-trial-court-staff/706-michigan-courts-quick-reference-guide/file>

Tribal Courts

Tribal courts are not state courts, but you should familiarize yourself with them. In fact, in some instances — such as child welfare cases involving a Native American child, tribal intervention is a right. There are 12 federally recognized tribes in Michigan. Each tribe is entirely separate, and each has sovereignty – the authority to self-govern.

Tribal courts have jurisdiction in Indian Country (per 18 U.S. Code § 1151) which includes reservations and trust lands owned by the tribe.

The tribe's jurisdiction in criminal offenses is limited to offenses committed by Native Americans on tribal lands. Civilly it handles a variety of disputes. The Michigan Supreme Court adopted MCR 2.615 in 1996 that ensures mutual recognition of state and tribal judgments.

State Court Administrator

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

Michigan Judicial Institute

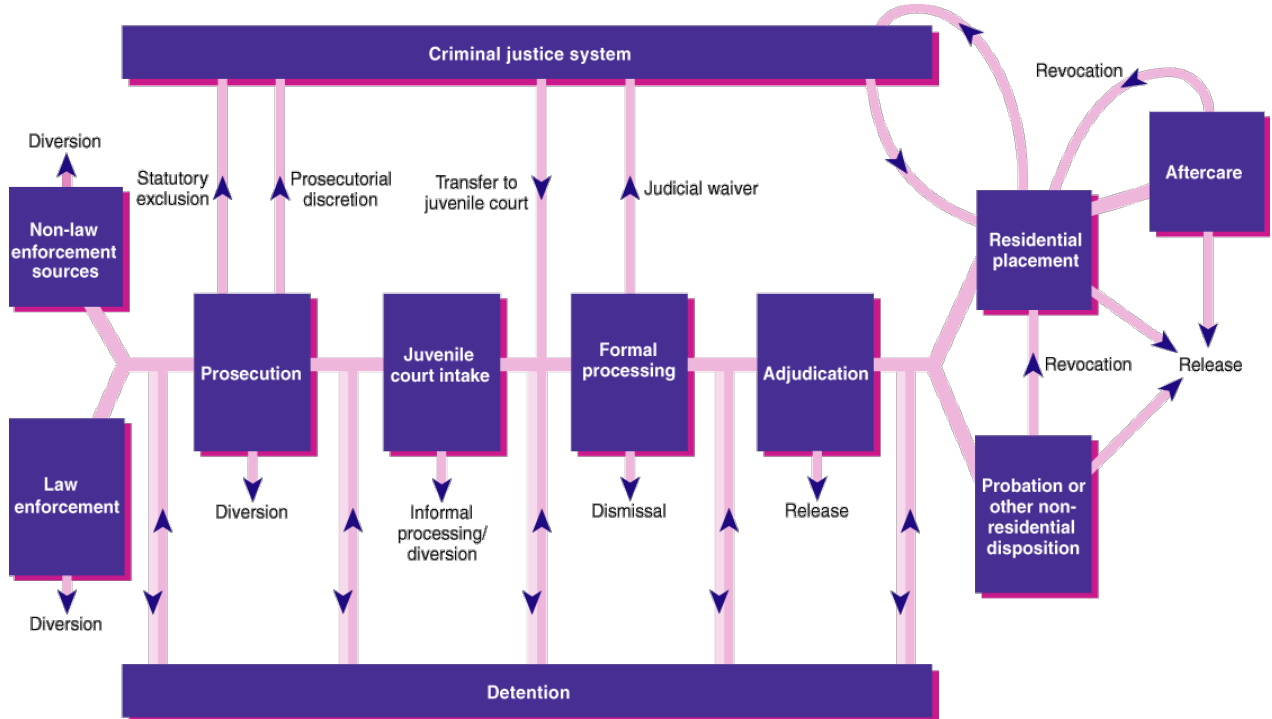
In 1977, the Michigan Supreme Court created the Michigan Judicial Institute (MJI). MJI is the education and training division of the Court.

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 Process

This diagram on the following page provides a general overview of how a case may flow through the juvenile justice system.²



Law enforcement diverts many juvenile offenders out of the justice system

When a juvenile is apprehended, a decision is made either to send the matter into the justice system or to divert the case, often into alternative programs. Usually, law enforcement makes this decision. Nineteen percent of all juveniles arrested are handled within the police department and then released. Seventy percent of arrested juveniles are referred to juvenile court.

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, separate from adult offenders, 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 one in five (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* the youth as delinquent. This language differs from that used in the criminal court system, where an offender is *convicted* and sentenced.

² Statistics are from "Juvenile Offenders and Victims: A National Report" publication, 2014 (the most recent statistics available). <https://www.ojdp.gov/ojstatbb/nr2014/>

Adjudication

Adjudication determines that the juvenile comes within the jurisdiction of the court. 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 dispositional hearing, an investigative report is often prepared by probation staff

After adjudication, 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.

The dispositional phase

The disposition phase of a delinquency proceeding is similar to the "sentencing" phase for an adult. At the disposition hearing, the juvenile probation officer's recommendations may be presented to the judge. The prosecutor and the youth may also present their side.

Most cases placed on probation also receive other conditions

A probation order may include specific terms and may be for a specified period of time or open-ended.

The judge may order the juvenile committed to a residential placement

Nationally, 22 percent of adjudicated delinquents are placed in residential facilities for a specific or indeterminate time period.

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. Status offenses are behaviors that are law violations only for juveniles. Status offenses may include 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 court are from law enforcement.

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REQUIREMENTS AND FUNCTIONS OF A JUVENILE PROBATION OFFICER/CASEWORKER IN MICHIGAN

Minimum Requirements

Minimum requirements for juvenile probation officers/caseworkers were established by Michigan Supreme Court 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 MJJ 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.

Functions Performed by All Probation Officers/Caseworkers

While job descriptions vary, almost every probation officer/caseworker performs similar functions, including:

Administrative

- court appearances;
- office activities and field visits;
- maintaining accurate and up-to-date case records;
- preparing and submitting reports;
- gathering and evaluating data;
- following court policy, and responsibility for monitoring compliance.

Casework and Interviewing

- interviewing, clarifying problems, suggesting constructive methods;
- consulting with supervisor when necessary;
- collaborating with public and private community agencies;
- referring probationers to community agencies;
- contacting collateral sources of information;
- establishing professional relationship with probationers.

Enforcement

- enforcing the court's orders;
- documenting facts and testifying in court compliance;
- petitioning the court to address alleged probation violations;
- requesting the court modify its orders, when appropriate.

Investigations

- conducting investigations, preparing appropriate reports.

Public Relations

- representing the judges, chief probation officer, and other court officials in public;
- addressing community groups, participating in conferences, panels, etc.;
- acting as a 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.

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 in Michigan?

What are the common functions performed by almost all juvenile probation officer/caseworkers?

Chapter 1: Overview of Manual and Definitions

MANUAL CONTENTS

Chapters 1-11 of this manual explain the laws, court rules, and procedures used in juvenile delinquency cases and personal protection order (PPO) cases involving a minor. Chapters 12-20 focus more on practical matters.

IMPORTANT DEFINITIONS—In Alphabetical Order (See MCR 3.903)

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) 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.

Competency:

A juvenile, 10 years of age or older, is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile less than 10 years of age is presumed incompetent to proceed. MCL 330.2062(1), MCL 712A.18n(1).

For more information on Juvenile Competency, see Chapter 4.

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

- (i) diversion records. MCL 722.821;
- (ii) the separate statement about known victims of juvenile offenses as required by the Crime Victim's Rights Act. MCL 780.751;
- (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) biometric 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" * 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) Michigan Department of Health and Human Services (MDHHS) records;
- (v) correspondence;
- (vi) victim statements;
- (vii) information regarding the identity or location of a foster parent, preadoptive parent, or relative caregiver.

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

Consent Calendar

The Consent Calendar statute, effective September 19, 2016, says, in part ". . . any time before disposition if the court determines that a case should not proceed on the formal calendar but that the protective and supportive action by the court will serve the best interests of the juvenile and the public, the court may transfer the matter to the consent calendar." MCL 712A.2f; MCL 712A.11(1). See also MCR 3.932(D).

A case shall not be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian and the prosecutor agree to have the case placed on the consent calendar. MCL 712A.2f(2).

The court shall not enter an order of disposition in a case while it is on the consent calendar. MCL 712A.2f(8). See also MCR 3.932(C)(6).

County Juvenile Agency: Is defined in the "County Juvenile Act," 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; MCL 803.302(a).

Disposition: Is 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.

Diversion: Means that instead of petitioning the court or authorizing a petition, 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.
 - (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).

Diversion may not be used for any offense listed as an assaultive crime by the Juvenile Diversion Act, MCL 722.822(a).

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

Formal Calendar: Are judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing. 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 is held. MCL 712A.2f.

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

Juvenile: Until September 30, 2021 “juvenile” means a person less than 17 years old who is the subject of a delinquency petition. Beginning October 1, 2021, “juvenile” means a person who is less than 18 years old who is the subject of a delinquency petition.

Juvenile Code: Is Public Act 54 of 1944, MCL 712A.1, as amended.

Legal Custodian: An adult who has been given legal custody of a minor by order of a court. 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: 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: A government official with the power to arrest or any other person designated by the court to apprehend, detain, or place a minor.

Parent: The mother, the father, or both. 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. MCR 3.002(20).

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

Petition Authorized to be Filed: Refers to written permission by the court allowing a petition to be filed containing allegations against the juvenile.

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.

Preliminary Inquiry: An informal review by the court to determine appropriate action on a petition.

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(c).

Referees

A court may assign a referee to conduct a preliminary inquiry or to preside at a hearing other than those specified in MCR 3.912(A) and to make recommended findings and conclusions. See also MCL 712A.10(1).

Attorney Referees

In general, only a person licensed to practice law in Michigan may serve as a referee at a delinquency proceeding other than a preliminary inquiry or preliminary hearing, if the juvenile is before the court for violations of law or ordinance. MCR 3.913(A)(2)(a); MCL 712A.10(2).

Only an attorney referee may preside at a hearing to designate a case or to amend a petition to designate a case and to make recommended findings and conclusions. MCR 3.913(A)(2)(c).

Only an attorney referee may preside at any hearing (other than a preliminary hearing) for the enforcement of a minor PPO and make recommended findings and conclusions. MCR 3.913(A)(2)(d).

Nonattorney Referees

In a delinquency case, a nonattorney referee may conduct only the preliminary inquiry or preliminary hearing. MCL 712A.10(2); MCR 3.913(A)(2)(a).

In a minor PPO enforcement proceeding, a nonattorney referee may conduct the preliminary hearing. MCR 3.913(A)(2)(d).

Scope of Referee Authority

The chief judge may designate a **probation officer or county agent to act as referee** in taking the testimony of witnesses and hearing the statements of parties on petitions alleging that a child is within the provisions of the Juvenile Code, if there is no objection by parties in interest.

The probation officer or county agent designed to act as referee shall do all of the following:

- (a) Take and subscribe the oath of office provided by the constitution.
- (b) Administer oaths and examine witnesses.
- (c) If a case requires a hearing and the taking of testimony, make a written signed report to the judge containing a summary of the testimony taken and a recommendation for the court's findings and disposition.

A referee's recommendations and proposed order [under MCL 712A.10(1)(c)] *cannot* be accepted without judicial examination. The ultimate decision and the exercise of judicial discretion rests squarely upon the trial judge and may not be delegated.

In re AMB, 248 Mich App at 217.

When a juvenile is taken into custody without a court order for violating a law, ordinance, or PPO and is not released to his or her parents, guardian, or custodian, a referee may conduct a preliminary hearing and may sign an order authorizing the filing of a complaint. MCL 712A.14(1) & (2).

Similarly, when a child is taken into protective custody without a court order and is not released, a referee may enter an order for the placement of the child pending a preliminary hearing. MCL 712A.14a(2)-(3).

Additionally, a referee may issue a written *ex parte* order authorizing the MDHHS to immediately take a child into protective custody and place the child pending a preliminary hearing. MCL 712A.14b(1); MCR 3.913(A)(2)(b); MCR 3.963(B)(4).

Referees are bound by the rules governing the Judicial Tenure Commission and the Michigan Code of Judicial Conduct. MCR 9.201(B)(2); MCR 9.202; Michigan Ethics Opinion JI-19 (April 9, 1990).

Review of Referee's Proposed Order

Before signing an order based on a referee's recommended findings and conclusions, a judge shall review the recommendations if requested by a party. MCR 3.991(B); MCR 3.991(A)(1).

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 who are:

Runaways: The juvenile has deserted his or her home without sufficient cause.

Incorrigibles: The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian.

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.

PROVIDING SERVICES TO DISABLED AND LIMITED ENGLISH PROFICIENT INDIVIDUALS

Interpreter Services: Courts have long been required to provide interpreter services for deaf-blind individuals. MCL 393.501.

Americans with Disabilities Act (ADA): *ADA prohibits discrimination against qualified individuals.* If you receive a request for an ADA accommodation, immediately contact your court's ADA coordinator. All courts are required to have an ADA coordinator.

Providing Services to Limited English Proficiency (LEP) Individuals

Courts are to provide court-appointed foreign language interpreters for LEP persons to support access to justice. If you receive a request for an LEP accommodation, immediately contact your court's LEP coordinator. All courts are required to have an LEP coordinator.

TYPES OF NONCRIMINAL CASES INVOLVING JUVENILES:

- 1. DELINQUENCY OFFENSES**
- 2. STATUS OFFENSES**
- 3. MINOR PERSONAL PROTECTION ORDERS**

1. Delinquency 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:

- 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;
- proceed on the consent calendar, or;
- authorizing a petition and proceeding on the formal calendar.

2. 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.

3. Minor Personal Protection Order Cases

Personal Protection Orders (PPOs): Forbid abusive conduct and stalking, including cyberstalking, 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 TYPES OF CASES INVOLVING JUVENILES CHARGED WITH CRIMINAL OFFENSES:

- 1. DESIGNATED CASES**
- 2. “AUTOMATIC” WAIVER CASES**
- 3. “TRADITIONAL” WAIVER CASES**

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 the case 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.

A court may use telephonic, voice, or videoconferencing to conduct an automatic waiver. MCR 6.006.

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 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

Competency

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 delinquency offense?

What is a status offense?

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

1. Subject-Matter Jurisdiction

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

2. 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 'found within the county'. . . in which the offense occurred, or in which the minor is physically present. MCR 3.926(A); 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 17th birthday and the court may hear and dispose of the petition under the Juvenile Code. MCL 712A.11(4).

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" (this becomes 18 years of age on October 1, 2021) who is charged with violating any municipal ordinance or state or federal law. MCL 712A.2(a)(1).

Jurisdiction of Contempt Cases

The family division may find any person who willfully violates, neglects, or refuses to obey an order of the court, and enforce reimbursement orders, and orders assessing attorney costs, through its contempt powers. MCL 600.1701; MCL 712A.26; MCL 712A.18(2) and (3); MCL 712A.17c(8); MCL 712A.18(5); MCR 3.915(E). However, a juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations unless the court determines that they have the resources to pay and have not made a good-faith effort to do so. MCR 3.928(D).

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.

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

To transfer a case to another jurisdiction, request courtesy supervision from the receiving county, include as much information as possible. If the request is granted, copies of all pertinent information should be forwarded to the receiving court, including court orders, court reports, investigation materials, school records, and psychological evaluations. Further contact should be made with the receiving court to provide background information about the juvenile and family history. The victim should be notified and the supervising county should have the victim's information.

Jurisdiction over Indian Children

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

The Michigan Indian Family Preservation Act (MIFPA), MCL 712B.1, sets requirements and procedures to ensure compliance with the Indian Child Welfare Act (ICWA), 25 USC 1901. MIFPA establishes procedures that are applicable to Indian children.

Essentially, if a child is known to be a member of a tribe, or is thought to be a member of, or eligible for membership in a tribe, notice must be given to the tribe and others. The tribe must be given the opportunity to take jurisdiction of the child. Also, see MCR 3.002(12).

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 juvenile. MCL 712A.6. However, those orders must be incidental to the jurisdiction of the court over the juvenile.

HANDLING CASES UNDER THE INTERSTATE COMPACT ON JUVENILES (ICJ)

All 50 states are parties to the ICJ. MCL 3.692. The ICJ allows for interstate placement and supervision of juveniles; the return of runaways, absconders, and escapees; and, the "extradition" of juveniles to and from Michigan to face criminal charges.

The ICJ is the only legal means to transfer a juvenile's probation or parole supervision from one state to another and to return juvenile runaways.

COMPACT TRANSFER ELIGIBILITY (SEE ICJ RULES 1-101; 4-101) A juvenile (who is not being placed in a residential facility) shall be eligible for transfer if he/she meets all of the following criteria:

- Is classified as a juvenile in the sending state; and,
- Is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication; and,

- Is under the jurisdiction of the court or appropriate authority in the sending state; and,
- Has a plan inclusive of relocating to another state for a period exceeding 90 consecutive days in any 12-month period; and,
- Has more than 90 days remaining at the time the sending state submits the transfer request; and,
- Will reside with a legal guardian, relative, nonrelative or independently; or, is a full-time student at an accredited secondary school, or accredited university, college, or licensed specialized training program and can provide proof of acceptance and enrollment.

No state shall permit a juvenile who is eligible for transfer to relocate to another state except as provided by the ICJ. Relocate means to remain in another state for more than 90 consecutive days in any 12-month period.

A request for transfer of supervision for the *sole* purpose of collecting restitution and/or court fines is not permitted.

REQUIREMENTS FOR TRANSFER OF JUVENILES OUT-OF-STATE (SEE ICJ RULES 1-101; 4-102; 4-104; 5-101; 8-101; ICJ ADVISORY OPINION # 02-2015)

The probation department in the sending state is responsible for submitting a complete referral packet containing the required ICJ forms and other documents to the receiving state for investigation. ***The court shall assist probation with the completion of the ICJ Form IA/VI Application for Compact Services and Memorandum of Understanding and Waiver. This form must be signed by the juvenile, a witness, and the judge prior to allowing the juvenile to leave the sending state.***

The juvenile should be directed to report to probation to complete the remaining ICJ forms.

When it is necessary for the juvenile probationer to proceed to the receiving state *prior* to receiving an official acceptance, the probation department may provide the juvenile with a travel permit for testing a proposed residence.

The out-of-state travel and agreement to return form must be signed by the juvenile and the supervising officer in the sending state, and must not provide permission to travel in excess of 90 calendar days. The probation department must send a copy of the travel permit to the receiving state through the Juvenile Interstate Data System *prior* to the juvenile's departure from the sending state.

A sending state must *not* allow a *juvenile sex offender* to proceed to a receiving state, until the sending state's request for transfer of supervision has been approved, or reporting instructions have been provided by the receiving state, unless the juvenile has no legal guardian remaining in the sending state. In this instance *only*, the sending state must determine if the circumstances of the juvenile's immediate transfer justifies the use of a travel permit and the appropriateness of the residence in the receiving state.

- If immediate transfer is necessary, the completed out-of-state travel and agreement form must be sent to the receiving state with justification for immediate placement prior to the juvenile's departure from the sending state.

- Receiving state must ensure compliance with local policies or laws when issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance. Juvenile sex offenders must abide by registration laws in receiving state (i.e., felony or sex offender registration, notification, or DNA testing).
- A juvenile sex offender who fails to register in the receiving state when required will be subject to the laws of the receiving state.
- The receiving state must advise the sending state of any sex offender registration requirements and/or reporting instructions the juvenile may have in the receiving state. The sending state maintains supervision responsibility until the transfer is officially accepted by the receiving state. The receiving state has the authority to supervise the juvenile sex offender pursuant to reporting instructions.

Upon completion of the ICJ forms, the probation department will submit a referral packet to the receiving state requesting transfer of supervision.

- The receiving state shall, within 45 calendar days of receipt of the referral, forward to the sending state the home evaluation along with the final approval or disapproval of the request for transfer of supervision.
- The receiving state cannot deny supervision based solely on the juvenile's age or the offense. Supervision *may* be denied when the home evaluation reveals that the proposed residence is unsuitable, or if the juvenile is not in substantial compliance with the terms and conditions of supervision, *except* when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.
- If transfer is denied, the sending state must arrange transportation for return of juvenile within five business days.
- Upon acceptance of supervision the receiving state must supervise the juvenile consistent with other similar juveniles under probation or parole supervision in the receiving state.
- At the time of acceptance or during supervision, a receiving state *may* impose any condition on a juvenile, if that condition would have been imposed on a similar juvenile in the receiving state.
- The sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on a juvenile.
- Both the sending state and the receiving state shall have the authority to enforce the terms of probation, which may include the imposition of detention time in the receiving state. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions. Neither state may impose a supervision fee. The sending state determines the age of majority and length of supervision. The receiving state determines the level (degree) of supervision.

VIOLATIONS and RETAKING (SEE ICJ RULES 5-103; 7-103; 7-104; 7-105)

Upon request from the receiving state, the sending state must facilitate transportation arrangements for the return of a juvenile within five business days when a legal guardian remains in the sending state and supervision in the receiving state fails as evidenced by:

- ♦ A juvenile is no longer residing in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or,

- ♦ An alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision and no viable alternatives exist in the receiving state; or,
- ♦ An immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; and,
- ♦ The receiving state has documented efforts or interventions to redirect the behavior; or,
 - The juvenile is not residing with a legal guardian, and that person requests the juvenile be removed from his/her home, the sending state is unable to secure alternative living arrangements within five business days, and an extension of time has not been approved by the ICJ office of each state.
 - A juvenile student transfer if supervision fails.

A duly accredited officer of a sending state *may* enter a receiving state and apprehend and retake any such juvenile on probation or parole. If this is not practical, a warrant may be issued.

For more information

See the ICJ Bench Book for Judges and Court Personnel:

https://www.juvenilecompact.org/sites/default/files/Bench%20Book_Web.pdf.

Contact the Interstate Commission for Juveniles National Office (ICJ):

<https://www.juvenilecompact.org/>

In Michigan, all requests for services in cases involving other states must be made to the MDHHS, Office of Children’s Services, and Interstate Services Unit. Contact Roy Yapple, Interstate Compact Office, at YappleR@michigan.gov.

Michigan’s Uniform Criminal Extradition Act (UCEA) MCL 780.1 applies to juveniles charged with delinquent behavior in another state. *In re Boynton*, 302 Mich App 632, 635-636, 640 (2013) held that the trial court properly permitted the 15-year-old respondent’s extradition to the state of Georgia to face accusations of delinquent behavior allegedly committed in that state when he was 12-years-old.

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”?

Does the court have jurisdiction over adults?

What are the procedures under the ICJ?

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:

- who is found violating any law or ordinance;
- whose surroundings endanger the juvenile's health, morals, or welfare;
- who is violating or has violated a PPO or valid foreign protection order.

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 from adult prisoners. MCR 3.933(D).

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

- warn and release the juvenile;
- refer the juvenile to a diversion program;
- seek authorization from the prosecuting attorney to file a complaint and warrant charging the juvenile with an offense. 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; or
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

An officer may take the juvenile into custody and submit a petition if it is in the best interest of the juvenile or the public, and 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 dismiss the petition and release the juvenile.

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 home personnel often make the initial custody determination. *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, including placement in a nonsecure 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, 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 of any crime must not be:

- confined with any adult;
- permitted in any courtroom during the trial of adults; or,
- be transported with adults. MCL 750.139(1).

Any person who violates these provisions is 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 must provide a victim with an opportunity to request notice of the juvenile's arrest and subsequent release, or both. MCL 780.782.

If a juvenile is placed in a juvenile facility following the preliminary hearing, 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.

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?

Chapter 4: Preliminary Inquiries, Diversion, Consent Calendar, 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.

The court may assign an attorney or nonattorney referee to conduct a preliminary inquiry. MCR 3.913(A)(1) & (2); MCL 712A.10.

A preliminary inquiry regarding, and the determination of, the indigence of any defendant shall be made by the court not later than at the defendant's first appearance in court. The determination may be reviewed by the court at any other stage of the proceedings. MCL 780.991(3)(a).

See also MCL 780.983(d)(i). "The indigency determination shall be made and counsel appointed to provide assistance to the defendant as soon as the defendant's liberty is subject to restriction by a magistrate or judge." Michigan Supreme Court Administrative Order No. 2016-2. Counsel must be assigned as soon as an individual is determined to be eligible for indigent criminal defense services. MCL 780.991(3)(a); MCL 780.983(a)(ii).

A preliminary inquiry is not a proceeding on the formal calendar, so the judge or referee is merely required to examine the petition and make his or her determination.

The court may:

- (1) deny authorization of the petition;
- (2) refer the matter to a public or private agency;
- (3) hold further informal inquiry on the petition;
- (4) proceed on the consent calendar; or,
- (5) place the matter on the formal calendar. MCR 3.932(A).

DIVERSION

Diversion occurs in lieu of the court assuming formal jurisdiction. MCL 712A.2(a). The family division may determine that services should be offered to a juvenile without the filing or authorization of a formal petition. The family division has the authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court jurisdiction. These services must be voluntarily accepted by the juvenile and his or her parents, guardian, or custodian.

The court may use informal procedures that comply with the Juvenile Diversion Act, MCL 722.821 *et seq.* MCL 712A.11(7).

Instead of a petition being filed and/or authorized:

- (i) the minor is released into the custody of his or her parent, guardian, or custodian; or,
- (ii) the minor and the minor's parent, guardian, or custodian agrees to work with a person or agency that will assist them. MCL 722.822(c)(i)–(ii); MCL 722.823(1)(a)–(b).

A 2019 decision by the Michigan Court of Appeals determined that a court may “unauthorize” a petition and remove it from the adjudicative process at any time before adjudication. *In re Diehl*, 329 Mich App 671, 694 (2019).

Offenses Precluding the Use of Diversion

Juveniles accused of, or charged with, “assaultive offenses” shall not be diverted.³

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. 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 is voluntary;
 - (b) an attorney may accompany them;
 - (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, 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

³ (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).)

Any agreement that imposes conditions on the minor must be 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

When 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).

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" was originally created by Michigan Supreme Court rule. It is now a statutory alternative that allows for the informal handling of cases by the court. MCL 712a.2f.

Placement on or Transfer to Consent Calendar: MCL 712A.2f; MCR 3.932(C)

If the court determines that formal jurisdiction should not be acquired over a juvenile, the court may proceed in an informal manner referred to as a consent calendar. MCL 712A.2f(1); MCR 3.932(C)(1). A case transferred to the consent calendar shall be transferred before disposition but may occur any time after receiving a petition, citation, or appearance ticket. MCR 3.932(C)(1); MCL 712A.2f(3). Note: See SCAO Form JC 15, *Order Transferring Petition to Consent Calendar*.

The court may proceed on the consent calendar if at any time before disposition the court determines that a case should not proceed on the formal calendar but that the protective and supportive action by the court will serve the best interests of the juvenile and the public.

A case must not be placed on the consent calendar unless the juvenile, the juvenile's parent, guardian, or legal custodian, and the prosecutor agree to have the case placed on the consent calendar. MCL 712A.2f(2); MCR 3.932(C)(2).

If the court authorizes the petition and the juvenile is alleged to have committed an offense that requires the juvenile to have biometric data (e.g., fingerprints) collected according to law, the court shall ensure the juvenile has biometric data collected before placing the case on [the] consent calendar. MCR 3.932(C)(1) & (3); MCR 3.936(B).

Except as otherwise required by law, a juvenile shall not have biometric data collected unless the court has authorized the petition. MCR 3.932(C)(3).

Upon transfer of a case to the consent calendar, the clerk of the court must make the case nonpublic. MCR 3.932(C)(1).

The court shall not enter an order of disposition in a case while it is on the consent calendar. MCL 712A.2f(8); MCR 3.932(C)(7).

Waiver of Juvenile's Rights

If the family division, the juvenile, the juvenile's parent, guardian, or legal custodian, and the prosecutor agree to place the case on the consent calendar, the juvenile waives certain rights, including, but not limited to:

- the right to the assistance of an attorney;
- the right to trial by judge or jury;
- the presentation of proof beyond a reasonable doubt; and,
- the privilege against self-incrimination (and the right to remain silent). MCR 3.915(A), MCR 3.935(B)(4)(a)-(c), and MCR 3.942(C).

If the case is transferred to the formal calendar, however, the court must inform the juvenile of his or her right to an attorney, of his or her right to trial by judge or jury, and that any statement made by the juvenile may be used against him or her.

See *In re Chapel*, 134 Mich App 308, 312-313 (1984).

Victims' Rights

If the case involves the alleged commission of an offense as defined in the Crime Victim's Rights Act (CVRA), MCL 780.781(1)(g), the case may be placed on the consent calendar only upon compliance with the procedures set forth in MCL 780.786b13 and with the consent of the juvenile, the prosecutor, and the parent, guardian, or legal custodian. MCL 712A.2f(3); MCR 3.932(C)(2). After a case is placed on the consent calendar, the prosecutor must provide the victim with notice.

Consent Calendar Conference

After placing a matter on the consent calendar, the court shall conduct a consent calendar case conference with the juvenile, the juvenile's attorney, if any, and the juvenile's parent, guardian, or legal custodian. The prosecutor and victim may, but need not, be present. At the conference, the court shall discuss the allegations with the juvenile and issue a written consent calendar case plan. MCL 712A.2f(7).

Case Plan and Costs

The court must issue a written consent calendar case plan if it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court.

The following requirements apply to the written case plan:

(a) May include a provision requiring the juvenile, parent, guardian, or legal custodian to reimburse the court for the cost of the consent calendar services for the juvenile. The reimbursement amount shall be reasonable, taking into account the juvenile's income and resources. The plan shall also include a requirement that the juvenile pay restitution under the Crime Victim's Rights Act. MCL 780.751—834I. SCAO guidelines for court-ordered reimbursement can be found here:

<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/standards/cor.pdf>.

- (b) A consent calendar case plan shall not contain a provision removing the juvenile from the custody of the juvenile's parent, guardian, or legal custodian.
- (c) The consent calendar case plan is not an order of the court, but shall be included as a part of the case record.
- (d) Violation of the terms of the consent calendar case plan may result in the court's returning the case to the formal calendar for further proceedings.

Successful Completion of Case Plan

Upon a judicial determination that the juvenile has completed the terms of the consent calendar case plan, the court must report the successful completion of the consent calendar to the juvenile and the Michigan State Police (MSP). MCL 712A.2f(12); MCR 3.932(C)(10).

Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the State Court Administrative Office. The MSP must maintain a nonpublic record of the case. MCL 712A.2f(12).17.

Transfer to Formal Calendar

If it appears to the court at any time that proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court shall proceed as follows:

- (a) If the court did not authorize the original petition, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition to determine whether the petition should be authorized.
- (b) If the court authorized the original petition, the court may transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition only after a hearing.

After transfer to the formal calendar, the court shall proceed with the case from where it left off before being placed on the consent calendar.

If a hearing is required under MCL 712A.2f(10)(b), the court must conduct the hearing on the record. MCR 3.932(C)(9)(b). At the hearing, the court must:

- “(i) Advise the juvenile that any statements made during the consent calendar proceedings cannot be used against the juvenile at a trial on the same charge.
- (ii) Allow the juvenile and the juvenile's attorney, if any, the opportunity to address the court, and state on the record why the case should not be transferred to the formal calendar.” MCR 3.932(C)(9)(b)(i)-(ii).

Case Records and Reporting Requirements

1. Nonpublic Record and Confidential File

MCL 712A.2f(5) requires that consent calendar case records be maintained in a nonpublic manner. The contents of the confidential file, as defined in MCR 3.903, shall continue to be maintained confidentially. MCL 712A.2f(5)(a)-(b). Also MCR 3.932(C)(1).

2. Michigan State Police Reporting and Nonpublic Record

MCL 712A.2f(12). MCL 712A.2f(12) further provides for limited access to the nonpublic record:

This record shall be open to the courts of this state, another state, or the United States, the Department of Corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court,

department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment, or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office.

3. Destruction of Records

Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the State Court Administrative Office.

JUVENILE TRAFFIC OFFENSES

A court may place a case involving a juvenile traffic offense, which would be a criminal offense if committed by an adult, on the consent calendar. See *In re Neubeck*, 223 Mich App 568,572-573 (1997).

FORMAL CALENDAR

MCR 3.903(A)(10) defines formal calendar as judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing of a delinquency . . . proceeding.

The court may authorize a petition to be filed and docketed on the formal calendar if it appears to the court that formal court action is in the best interest of the juvenile and the public. MCR 3.932(D).

The court shall not authorize a delinquency petition, however, unless the prosecuting attorney has approved submitting the petition to the court. MCR 3.932(D); MCL 712A.11(2).

The juvenile must be advised of his or her right to counsel, right to trial by judge or jury, right to the presentation of proof beyond a reasonable doubt, and privilege against self-incrimination when the court is proceeding on the formal calendar. MCL 712A.17c(1); MCR 3.915(A)(1); MCR 3.935(B)(4)(a)-(c); MCR 3.942(C).

If at any time before disposition the court determines that a case should not proceed on the formal calendar the court may transfer the matter to the consent calendar under MCL 712A.2f. MCL 712A.11(1); MCR 3.932(D).

Competency

A juvenile 10 years of age or older is presumed competent. A juvenile less than 10 years of age is presumed incompetent. MCL 330.2062(1) and MCL 712A.18n(1).

If a juvenile is the subject of a delinquency petition or is charged with a status offense under MCL 712A.2(a)(2)-(4), the court may order a competency evaluation to determine whether the juvenile is competent to proceed. MCL 712A.18r(4).

A competency evaluation is to be conducted by a qualified juvenile forensic mental health examiner.

If the court finds that the juvenile is incompetent, and will remain incompetent, to proceed the charges must be dismissed and the court may determine custody of the juvenile. MCL 330.2068(2) and MCL 712A.18q(2).

If the juvenile is determined to be incompetent to proceed, but may be competent sometime in the future, then restoration services are to be provided. MCL 330.2074(1); MCL 712A.18s(1); MCL 330.2074(2)-(4); and, MCL 712A.18s(2)-(4).

Drug Treatment/Specialty Courts

Family divisions are authorized to institute or adopt a drug treatment court for juveniles. MCL 600.1062(2). A drug treatment court is ". . . a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol." MCL 600.1060(c). These courts are specially designed to reduce recidivism and substance abuse among nonviolent, substance-abusing offenders and to increase the offenders' likelihood of successful habilitation through early, continuous, and intense judicially-supervised treatment, mandatory periodic drug testing, and use of appropriate sanctions.

Drug treatment courts evolved to address the revolving-door cycle in which drug and alcohol offenders moved in and out of the justice system. Drug treatment courts treat addiction as a complex disease and provide a comprehensive, sustained continuum of therapeutic interventions, treatment, and other services to increase a participant's periods of abstinence and reduce the rate of relapse, rearrest, and incarceration. Every drug treatment court operating in this state must be certified by the State Court Administrative Office. MCL 600.1060.

Juvenile Mental Health Courts

A family division of circuit court may adopt or institute a juvenile mental health court. MCL 600.1091.

A mental health court is a court-supervised treatment program for individuals who are diagnosed by a mental health professional with having a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability. MCL 600.1090(e).

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?

What is the consent calendar?

What is the formal calendar?

Who is competent to stand trial?

What happens if the juvenile's competency is in question?

Are drug offenders eligible for diversion?

What is a drug treatment/specialty court?

What is a juvenile mental health court?

Chapter 5: Petitions and Preliminary Hearings

PETITIONS

Petition to Commence Cases in the Family Division

A petition is a complaint or other written accusation that a juvenile has committed an offense.

Any person may provide information to the court indicating that a juvenile has committed a status offense. Only the prosecuting attorney may file a petition in criminal matters. MCL 712A.11(1)-(2); MCR 3.914(B)(1).

Required Contents of Petition

All petitions filed under the Juvenile Code must contain a separate petition number, not just those petitions that are authorized. MCR 8.119(D)(1) *In re Diehl*, 329 Mich App 671, 694 (2019).

A petition must set forth the facts and 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 involvement, and the action requested. MCL 712A.11(3).

The petition has two principle 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.

Juvenile Found Responsible for a Felony Using a Motor Vehicle

If a juvenile is found responsible for an act in which a motor vehicle was used, their driver's license will be suspended by the Secretary of State.

Preliminary Hearing

A preliminary hearing is the formal review of the petition where the judge or referee considers authorizing the petition and placing the case on the formal calendar. The Michigan Rules of Evidence apply.

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 3.925. This is the point where the juvenile's court record begins.

Until a petition is authorized, it is a nonpublic record, accessible only by the court and parties. After authorization, a petition and any associated records may be made nonpublic as permitted by rule or statute. MCR 3.903(A)(21).

Right to Legal 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 case.
- (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.

Constitutional Rights

Juveniles *do not* have a constitutional right to be treated differently than adult offenders when they are charged with committing a criminal offense. However, caselaw has established various rights for juveniles. See *People v Hana*, 443 Mich 202, 220 (1993): Holding that the constitutional protections extended to juvenile proceedings; *People v Abraham* 256 Mich App 265 (2003), holding that the statute allowing charging, trying, and sentencing a juvenile as an adult is constitutional; *People v Conat*, 238 Mich App 134, 159 (1999), holding that the statute requiring the circuit court to sentence certain juvenile offenders as adults is constitutional; and *People v Parrish*, 216 Mich App 178, 182 (1996).

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 custody, excluding Sundays and holidays, or the juvenile must be released. MCR 3.935(A)(1).

A court may use videoconferencing to conduct a preliminary hearing. MCR 3.935(1).

RELEASING OR DETAINING A JUVENILE PENDING FURTHER ORDER, OR TRIAL

Personal Recognizance

Public policy favors releasing a juvenile pending further hearing. However, if the court determines a personal recognizance bond will not reasonably ensure the juvenile's appearance, the court may order reasonable conditions to ensure the offender's appearance at further hearings as required, and the safety of the public. MCR 6.106(D).

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) the juvenile's character and mental ability;
- (g) the court's 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

- **Personal Recognizance:** An obligation entered into before the court containing an individual's promise to appear and answer to an alleged offense.
- **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.
- **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?

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

ADJUDICATION

Adjudication is the determination that the minor comes within the jurisdiction of the court; meaning that the fact-finder determines 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. If the court appoints legal counsel, the judge may assess the cost of providing legal counsel as costs against the juvenile or those responsible for his or her support, or both, if the persons to be assessed are financially able to comply.

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 a youth’s records or confidences without the consent of a parent or legal guardian. MCL 600.2165.

Findings of Fact

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

If a juvenile is denied admission to the drug treatment court after admitting responsibility, they are allowed to withdraw the admission of responsibility. MCL 600.1068(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

Similar to sentencing in an adult case, the purpose of a dispositional 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).

Juvenile's Presence at Dispositional Hearing

The juvenile must be present when the disposition is announced. MCR 3.943(D)(1).

A court may use videoconferencing to conduct a dispositional hearing as long as the court does not order a more restrictive placement or more restrictive treatment. MCR 3.904(A)(1).

Procedure at Dispositional Hearings

The proper procedure for the court to follow is to take sworn testimony on the record, allow defense counsel and the prosecuting attorney to argue for an appropriate disposition, and articulate reasons for the disposition imposed. However, sworn testimony is not always taken at dispositional hearings. A probation officer or caseworker assigned to the juvenile's case may submit a report and recommendation for disposition. Defense counsel may make a statement agreeing with or disputing the recommendation. In addition to the probation officer's or caseworker's report, the court may receive reports from the juvenile's school, psychological evaluations, substance abuse evaluations, and, if commitment to the Department of Health and Human Services is contemplated, a classification and assignment report submitted by a delinquency services worker.

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 cruelty to animals or arson, must be evaluated to determine the need for psychiatric or psychological treatment. MCL 712A.18l.

DNA Profiling

The Michigan State Police must receive and permanently retain a DNA profile for any offense that would be a felony if committed by an adult. MCL 28.176; MCL 712A.18k.

DISPOSITIONAL OPTIONS

The Juvenile Code and Michigan 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. MCL 712A.18(1)(a).

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-.31; MCL 712A.18(7).

2) Appointing a Guardian. MCL 700.5204.

If the court appoints a guardian, it *may* enter an order dismissing the petition. MCL 712A.18(1)(h).

3) In-Home Probation. MCL 712A.18(1)(b).

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. 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) Community Service. MCL 712A.18(1)(i).

5) 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 750.503-4.

6) 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:

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

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:

<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/CrimeVictimAssessment.pdf>

7) 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.

8) Participation in a Juvenile Drug Treatment Court or Mental Health Court:

MCL 712A.18(1)(b); MCL 600.1090.

9) Foster Care: MCL 712A.18(1)(c).

10) Juvenile Boot Camp: MCL 400.1301; MCL 712A.18(1)(m).

11) Placement in or Commitment 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).

12) 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). See Chapter 15: Continuum of Services and Funding.

Juveniles may be committed to a county health and human services office “for placement and care.” MCL 400.55(h). See SCAO Form JC 25.

Juveniles may also be committed as “public wards” to the MDHHS pursuant to the Youth Rehabilitation Services Act. MCL 803.301.

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).

Youth Adjudicated for Criminal Sexual Conduct

If a juvenile is adjudicated for committing criminal sexual conduct or assault with intent to commit sexual conduct involving sexual penetration or in the second degree, a court must order that the juvenile is prohibited from “attending the same school building that is attended by the victim of the violation. The order must also prohibit the juvenile from using a school bus for transportation to and from any school if the juvenile will have contact with the victim during use of the school bus.” MCL 750.520o(1)(a) & (b). For more information on assessment and treatment see Chapter 18.

PAYMENT OF COSTS:

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. If a juvenile requests a hearing the court must determine the probationer is or will be able to pay costs during the term of probation.

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.

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.928(D).

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).

Forgiveness of Costs

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(6)(a)-(b); MCL 712A.18(19).

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, which may include:

- additional conditions;
- extending the term;
- additional costs;
- out-of-home placement;
- more restrictive placement;
- state wardship;
- any other conditions deemed appropriate by the court.

APPEALS

A juvenile may appeal an order of disposition that places them under the supervision of the court, or an order of disposition that removes them from the home.

MCR 3.993(A)(3). See also *In re McCarrick/Lamoreaux*, 307 Mich App 436 (2013).

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)).

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. MCR 3.928. This form should not be used for probation violations.

EXTENSION OF FAMILY DIVISION JURISDICTION BEYOND A JUVENILE'S 17TH 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?

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 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 periodic hearings to review dispositional orders in juvenile delinquency cases where the juvenile was placed outside his or her own home. Reviews may include the probation officer or community service worker. The victim has a right to make an oral and/or written statement.

Videoconferencing

A court may use videoconferencing to conduct a post-dispositional hearing where the court does not order a more restrictive placement. MCR 3.904.

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).

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.

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

If a child is removed from the home, the court must hold review hearings not more than 182 days from the date a petition is filed and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year, a review hearing must be held no later than 182 days from the immediately preceding review hearing and no later than every 182 days from each preceding review hearing after that until the case is dismissed. MCL 712A.19(3).

If a child is under the care and supervision of the MDHHS and is either placed with a relative and the placement is intended to be permanent or is in a permanent foster family agreement, the court shall hold a review hearing not more than 182 days after the child has been removed from his or her home and no later than every 182 days after that so long as the child is subject to the jurisdiction of the court, the Michigan children's institute, or other agency. MCL 712A.19(4).

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).

Modifying the Plan

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

Required Decisions

The court shall:

- (1) return 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).

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).

CONTINUED JURISDICTION

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). 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 or agency, how often must progress reports be made?

How often must review hearings be held?

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 rights do crime victims have?

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).

Michigan Statutes Addressing Restitution

See: MCL 712A.30; MCL 712A.31; MCL 780.751 through MCL 780.834; MCL 712A.18 through MCL 712A.30.

“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.

Offenses for Which Restitution Must Be Ordered

The 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.

When Must Restitution Must Be Ordered

The court is to order restitution at the disposition or sentencing hearing.

Claims for Restitution That Arise After Disposition or Sentencing

The court may amend a restitution order based upon new information.

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.

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.

An offender may not be held liable for restitution for crimes for which he or she was not specifically charged. *People v McKinley*, 496 Mich 410 (2014).

The court can order criminal defendants to pay victims' travel expenses connected with recovering their stolen property and attending restitution hearings. *People v Garrison*, 495 Mich 362, 365, 373 (2014).

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, 427 (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 allow the juvenile to make restitution within a specified period or in specified installments.

Amount of Restitution Required

The court must consider the amount of the loss sustained by any victim.

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.

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.

3) Expenses Related to the Victim’s Death

The court must order the restitution be paid to the victim’s estate.

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.

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.

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.

- 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."

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.

The Juvenile Code does not limit the amount of restitution for which a parent may be held liable. See *In re McEvoy*, 704 N.W.2d 78 (2005).

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.928(D).

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."

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. Where restitution is imposed as a condition of probation, the court must also order either community service or employment as a condition of probation.

The court may revoke probation if the juvenile intentionally refuses to perform required community service.

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.

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 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.

Revocation of Probation for Failure to Comply with Restitution Order

If restitution is not being paid as ordered, a probation officer/caseworker must file a written report, including a statement of the amount of the arrearage and any reasons for the arrearage.

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.928(D).

Modification of Method of Payment of Restitution

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.

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.

Incarceration for Failure to Pay Court-Ordered Financial Obligations: Determination of Ability to Pay

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.944(F).

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.

Dischargeability

Restitution order is not dischargeable in bankruptcy cases.

No Forgiveness (Remission) of Restitution Paid If 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.

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.

CRIME VICTIM'S RIGHTS FUND ASSESSMENT

Assessments of Adjudicated Delinquents

The court must order a \$25 crime victim's rights fund assessment against an adjudicated juvenile.

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.

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?

Chapter 9: Probation Violations

DUE PROCESS REQUIREMENTS

Probationers are entitled to:

- (a) written notice of the claimed violations of probation;
- (b) disclosure of evidence against them;
- (c) opportunity to be heard in person and to present witnesses and 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. See: *People v Pillar*, 233 Mich App 267, 269 (1998), *Gagnon v Scarpelli*, 411 US 778 (1973).

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, which must be commenced within 24 hours after the juvenile has been taken into court custody, excluding Sundays and holidays 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 seven 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).

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.

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

Instead of issuing a summons, 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. MCL 712A.2c.

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, the time and place of the detention hearing, if known, and the need for the presence of the parent, guardian, or legal custodian at the detention hearing.” MCR 3.934(B).

DETENTION HEARINGS

Conduct of Detention Hearing

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 hearing may be conducted *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.

Detention without Bond

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).

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 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.

This form should not be used for probation violations.

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.

Recording Probation Violation Hearings

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

“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).

MCL 712A.10(1) allows a court to assign a juvenile probation officer or county agent as a referee. The juvenile officer who submits a petition alleging a probation violation should not 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.

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.

Limitations on Use of Evidence at Probation Revocation Proceedings

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. But, a probationer cannot be compelled to testify against him/herself at a probation revocation hearing.

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).

Reporting

A probation violation based on a juvenile's responsibility for committing an offense must be recorded as a probation violation only, not as a finding of responsibility for the underlying offense. MCR 3.944(E)(3).

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:

- additional conditions of probation;
- an extended term of probation;
- additional costs;
- out-of-home placement;
- a more restrictive placement;
- state wardship;
- any other conditions.

Incarceration for Failure to Pay Court-Ordered Financial Obligations: Determination of Ability to Pay

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.944(F).

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?

Under what circumstances may a juvenile or parent be detained/incarcerated for failure to pay restitution?

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 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)(16). 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 PPO 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 PPOs.

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:

- 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 two individuals in a business or social context." MCL 600.2950(30)(a).

(2) Nondomestic PPOs

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

(A) 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).

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

(B) 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.

Petitioner May Not Be a Prisoner

A court must not enter a nondomestic stalking PPO if the petitioner is a prisoner. MCL 600.2950a(31).

A "prisoner" includes an adjudicated delinquent. MCL 600.2950a(32)(e).

Filing Fee

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

REQUIRED CONDITIONS IN A PPO

If the court grants a PPO petition, the resulting order must contain the following information/statements:

- A PPO has been entered;
- The penalties for violation;
- 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;"
- A statement listing the prohibited conduct; and,
- An expiration date. MCR 3.706; MCL 600.2950 and 2950a.

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(13).

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 the 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 the facts and alleged violation. MCR 3.983(A). A probation officer or a caseworker may file this petition.

If a PPO petition is filed in the same court where a pending action was filed or a prior order or judgment involving the same party was entered, the PPO petition must be assigned to the same judge. MCR 3.703(D)(1)(a).

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

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 juvenile for whom there is reasonable cause to believe is found violating or has violated a PPO or a valid foreign protection order. MCL 712A.14(1).

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, 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 PPO. Only an attorney referee may preside at any other hearing for the enforcement of a minor PPO 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. MCL 600.2950h.

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).

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) have 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;
- (f) remain silent. Any statement the respondent makes may be used against him or her.

Authorization or Dismissal of the Supplemental Petition

At the preliminary hearing, the court must decide whether to authorize the filing of the supplemental petition, 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: Court Records

FAMILY DIVISION RECORDS

Definition

“Records” include both paper and electronic files, and are defined as pleadings, complaints, citations, motions, authorized and unauthorized petitions, notices, memorandums, briefs, exhibits, available transcripts, findings of the court, registers of action, consent calendar case plans, and court orders. MCR 3.903(A)(25). These items are contained in the so-called “legal file.” Confidential information is contained in the so-called “social file.” MCR 3.903(A)(3)(b).

Records Management

The court, under the direction of the chief judge, has responsibility for the management of all records necessary to adequately support the business of the court. For additional information on records management, and for links to records retention and disposal schedules, see the State Court Administrative Office’s Records Management website: <https://courts.michigan.gov/Administration/admin/op/Pages/records-management.aspx>

“Clean Slate for Kids”

On January 4, 2021, the Legislature enacted a series of bills aimed at juvenile justice reform. The Clean Slate for Kids package makes juvenile records nonpublic and amends the current set aside application process, while also creating an automatic set aside process to be implemented by July 2023.

The information below summarizes the Clean Slate for Kids package, and also offers initial guidance to courts about the package’s implementation. The State Court Administrative Office (SCAO) is continuing to identify and address issues relating to case management systems, court rules, and court procedures.

Set Aside

1. What is the effective date? There are actually two effective dates. The first effective date, July 3, 2021, relates to the amendments of the existing set aside process. The second effective date, July 3, 2023, relates to the automatic set aside process.
2. How is the current set aside application process affected beginning July 3, 2021?
 - a. The statute applies to juvenile adjudications.
 - b. A person can file an application for set aside of a juvenile adjudication one year after termination of court jurisdiction over the person.
 - c. Certain traffic offenses will no longer be ineligible for set aside.
 - d. The \$25 fee for the Michigan State Police (MSP) is deleted.
 - e. The attorney general or prosecuting attorney must contest the application no later than 35 days after service, if they choose to do so.
 - f. Setting aside an adjudication for a traffic offense does not require the Secretary of State to remove it from the driving record.
3. What does the automatic set aside process do that takes effect July 3, 2023?
 - a. Automatically sets aside certain offenses 2 years after termination of court supervision or when the juvenile turns 18 years of age – whichever comes later.
 - b. Removes the limitation on the number of offenses that can be set aside.
 - c. Does not apply to status offenses.
 - d. Removes the ability for the attorney general or prosecuting attorney to contest the set aside.

- e. Clarifies that:
 - i. A person is not entitled to remission of fines, costs, etc.
 - ii. The set aside does not affect a person's right to rely upon adjudication to bar subsequent proceedings for the same offense.
 - iii. The set aside does not affect the right of the victim to prosecute or defend a civil action for damages.
 - iv. The set aside does not create a right to commence an action for damages for detention.
- f. Requires courts to notify the arresting agency and MSP upon the setting aside of an adjudication.
- g. Requires MSP to maintain a nonpublic record of a juvenile's offenses that are set aside, and lists those who may have access to the nonpublic MSP record and for what purpose.
- h. Requires a copy of the nonpublic record to be provided to the juvenile upon payment of a fee determined by MSP.
- i. Makes the MSP nonpublic record exempt from access under FOIA.
- j. Provides a penalty for divulging/publishing information about adjudications that are set aside.
- k. Stipulates that setting aside an adjudication for a traffic offense does not require the Secretary of State to remove it from the driving record.

Public Act 362 of 2020 – Nonpublic Status of Juvenile Records

1. What is the effective date? March 24, 2021.
2. What case types are included? All cases under the Juvenile Code (MCL 712A.2):
 - DL (Delinquency Proceedings)
 - NA (Child Protective Proceedings)
 - DJ (Designated Juvenile Offenses)
 - JG (Juvenile Guardianship)
 - PJ (Personal Protection Actions Brought Under the Juvenile Code)
 - VF (Voluntary Foster Care)
 - TL (Traffic and Local Ordinance)
3. Are district court records of a case concerning a juvenile nonpublic where the circuit court and district court have agreed to waive such cases to district court? No. The new language makes records "of a case brought before the court" nonpublic, and "court" is defined to be the family division of circuit court. In jurisdictions where the district court handles civil infractions committed by juveniles (MCL 712A.2e), records would be available as previously allowed.
4. Are court hearings nonpublic? Hearings remain public unless specifically closed by statute or under the court rules.
5. Are audio and video recordings of court hearings nonpublic? Yes.
6. Should a separate "social file" still be maintained? Yes. Courts should continue to maintain a separate "social file" as required under MCR 3.903(A)(3)(b).
7. Does this new mandate cover all records of open and closed cases? With regard to the effective date of the restrictions, the statute indicates that beginning March 24, 2021, records of a case brought before the court are not open to the general public.
8. Will courts have to manually enter nonpublic codes in the Case Management System? Effective March 19, 2021, Judicial Information Services (JIS) has updated all of its case management systems making any existing cases and petitions for the affected case types nonpublic, whether in open, adjudicated, or closed status.

9. Who can have access to the nonpublic record? The act limits access to persons with a legitimate interest, which is defined as including but not limited to the:
 - a. Juvenile,
 - b. Juvenile's parent(s),
 - c. Juvenile's guardian(s)/legal custodian(s),
 - d. Counsel for the juvenile,
 - e. MDHHS or a licensed child caring institution or child placing agency under contract with the MDHHS to provide care and supervision of the child if related to an investigation of child abuse or child neglect,
 - f. Law enforcement personnel,
 - g. Prosecutor,
 - h. Member of the foster care review board,
 - i. Indian child's tribe, and/or
 - j. Court of this state.
10. Can the court allow access to others not specifically included on the list of persons who are defined to have a legitimate interest? Yes. Courts may grant access to others because the statute defines those with legitimate interest as "including but not limited to" a specific list. MCL 712A.28. That access would be provided under the procedure in MCR 3.925(D).
11. Must a person file a motion to request access to court records? The court should develop a process that allows a person to request access to the records of a case and enables the court to make the required determination whether the person has a legitimate interest in the case. Neither the statute nor court rule requires a form to make this request, nor requires use of a SCAO-approved form. At this time, there is no SCAO-approved form.
12. Does access to records in consent calendar and diversion cases change? No. Existing statutes (MCL 712A.2f and MCL 722.828) describe how these case type files are maintained and who may have access.
13. Will MSP also need to make juvenile cases nonpublic? The statutory amendments to MCL 712A.28 only address records of the court, not MSP.

The "Confidential" and "Social" Files

The **confidential file** means:

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

- (i) diversion records. MCL 722.821.
- (ii) the separate statement about known victims as required by the CVRA. MCL 780.751.
- (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) biometric 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" 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) MDHHS 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).

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).

Documents and other materials made confidential by court rule, statute, or order of the court must be designated as confidential and maintained to allow only authorized access. MCR 8.119(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 Files and Records

The records of a trial court may not be disposed of except as authorized by the records retention and disposal schedule and upon order by the chief judge of that court. MCR 8.119(K).

The court shall destroy its case files and other court records only as prescribed by the records retention and disposal schedule established under MCR 8.119(K).

Destruction of a case record does not negate, rescind, or set aside an adjudication.

Diversion Case Records

A juvenile diversion record must be destroyed within 28 days after the juvenile becomes 17 years of age. MCL 722.828(3). Note: This becomes 18 years of age as of October 1, 2021.

Consent Calendar Case Files

Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with State Court Administrative Office rules. MCL 712A.2f(9).

However, if a case on the formal calendar is transferred to the consent calendar, the register of actions created for the formal calendar must be maintained permanently as a nonpublic record. MCL 600.1428; MCR 8.119(K).

Records That May Not Be Destroyed

The Register of Actions (case history) must be maintained permanently and may not be destroyed. MCR 3.903(A)(26); MCR 3.925(E)(2); MCR 8.119(D)(1); MCR 8.119(D)(1)(a).

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 the confidential file?

What is the social file?

Who may access confidential files?

What happens to diversion records?

What happens to consent calendar records?

Chapter 12: Ethics for Probation Officers

Ethics

Ethics are the set of moral principles that guide a person’s behavior. As professionals, probation officers, and caseworkers exercise specialized knowledge and skills and have unique obligations to the court, youth, and families served.

Specific ethical guidelines for juvenile probation officers accompany the “Model Code of Conduct for Michigan Court Employees”. Check with your court administrator or chief judge to see if your court has adopted a code of conduct.



Model Code of Conduct for Michigan Trial 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. I will maintain dignity in every comment, photograph, or video shared in person or via electronic means including social networking sites.

Canon Two **ABUSE OF POSITION**

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

Canon Three **IMPARTIALITY**

I will provide impartial treatment to all persons interacting with the court. I will not make comments in person or via electronic means including social networking sites regarding pending matters, including comments regarding parties, or attorneys who appear before 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. Information on blogs or other social media should comply with the court's confidentiality and any other relevant court policies. I will not post internal reports, policies, procedures, or other internal business-related confidential communications on social media. I will not use my court e-mail address to register on or engage in social media or professional social networking utilized for personal use.

**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 the court, litigants, coworkers, and all others interacting with the court in a timely, diligent, and courteous manner. I will not harass, threaten, retaliate or disparage court employees, or anyone associated with, or doing business with the court, whether in person or through other means, including the use of social media.

**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

The following guidelines clarify the
aforementioned canons:

Canon One

IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY

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

- Violating federal, state, or local laws and regulations.
- Entering into a contract directly or indirectly for services, supplies, equipment, or realty with the court system.
- 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.
- Employees shall abide by the Michigan Supreme Court anti-nepotism policy found in AO 2016-5.
- Employees shall not engage in the use of social media while also listing his or her affiliation with the court. If an employee identifies himself or herself as a court employee, they must state that the views they express on social media are their own and not those of the court.
- If employees choose to identify themselves as judiciary employees on personal social media, some readers may view them as spokespersons for the court and/or for a particular court. Even if you do not identify yourself as a judiciary employee, you should assume that the viewer of any social media is aware that you are a judiciary employee and that you are held to a high standard of personal and professional conduct.

Canon Two

ABUSE OF POSITION

The use of the real or apparent power of a position as a court employee to personally benefit the employee or someone else is prohibited. Court employees should never use their position to secure privileges, gifts, special favors, or exemptions. Generally, these would be special considerations given by others to the employee specifically because of his or her position as a court employee. 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.

**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 probation officer to provide special treatment. Differential treatment in any of these situations undermines the integrity of the probation officer and the judicial system.

**Canon Four
PROPER USE OF
PUBLIC RESOURCES**

Court employees are stewards of public resources. A court employee 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.), or the use of court property to assist nonemployees as a favor.

**Canon Five
DUTY TO DISCLOSE**

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

Court employees 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. This will allow the court to take the appropriate actions related to the employee's status. When required by law, rule, or regulation, court employees will dutifully disclose all financial interests and dealings.

Canon Six
**CONFIDENTIALITY &
DISCRETION**

Although most court records are public, some are nonpublic, and cannot be released. Court employees 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 to the media, general public, in person, or over the phone, or on social media. Employees shall never disclose confidential information including, but not limited to, the possible outcome of a pending case, case processing procedures, and other nonpublic information in person or via electronic means including social media platforms.

A court employee 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.

Sensitive information acquired by court employees 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, court employees should exercise a great deal of discretion.

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 participants in litigation, 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. Court staff should discuss cases only for legitimate reasons. Court employees 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. Counter clerks should guard against being overheard when discussing legitimate confidential information.

**Canon Seven
DISCRIMINATION**

Essential to the administration of justice is allowing equal access and treatment for all. Every day court employees 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 court employees should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged.

Additionally, the evaluation of prospective employees should be based on their employable qualities such as job skills, knowledge, and attitude. Likewise, the evaluation of existing employees should be based upon criteria such as job skills, knowledge, and attitude in the performance of their duties. Therefore, no employee will discriminate in favor of or against any employee or applicant for employment based on the individual's race, religion, gender, national origin, political activities, etc.

**Canon Eight
POLITICAL ACTIVITY**

A court employee'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, court employees must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules/orders provided by the court. It is never acceptable to undermine the judge or speak negatively of the court, especially in a public arena. A court employee's primary obligation is to the court. Court employees are not to inappropriately destroy, alter, falsify, mutilate, backdate, or fail to make required entries on any court records.

Court employees must recognize that colleagues are also customers, and they should be given the same level of professional consideration as public clients.

**Canon Ten
COMPETENCY**

Employees shall refrain from posts on social media that can contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law. Some specific examples of prohibited social media conduct include posting commentary, content, or images that are defamatory, pornographic, proprietary, harassing, or libelous.

When working within the court system, laws and rules of operation are continually changing due to legislation, court rules, administrative orders, caselaw, technology, etc. Therefore, court employees are encouraged to take advantage of educational opportunities that will enhance their skills, advance their understanding, and allow for better service.

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 on 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:

Probation officers shall not violate federal, state, or local laws and regulations.

Probation officers shall recognize that probationers have legal rights regarding new substantive offenses, apart from the issue of a probation violation. Probation officers should not use their position to elicit information that may be used against the juvenile without first warning the juvenile.

Probation officers shall not accept outside employment that may conflict or appear to conflict with the probation officer'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 probation officer to disclose information acquired in the course of his or her official duties.

Probation officers shall avoid entering into a contract or conducting financial or business dealings with probationers and their families, or with service providers. In the event such dealings are unavoidable, the probation officer shall not receive any special personal or financial benefits and shall disclose the business dealing to the probation officer's employer.

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 established by the court.

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 for the donor in return. This contravenes the core ideals of the judiciary.

A probation officer shall not attempt to take advantage of his or her access to court records to further any personal interest.

A probation officer shall not attempt to take advantage of his or her access to judges and/or referees to engage in ex parte discussion in order to influence the court or outcome of the proceedings.

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 probation officer to provide special treatment. 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 personally involved socially or intimately either with probationers or with their families. Any such preexisting relationship should immediately be 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.

Implicit Bias

Implicit Biases, also called unconscious biases, are social stereotypes about groups of people that individuals form outside of their conscious awareness. They are based on an individual's background and experiences and lead to quick judgments about people and situations. Fortunately, there is increased awareness and tools available to help.

Five steps to help mitigate implicit bias:

1. **Admit this to yourself**

No human being is unbiased. You have to acknowledge that you are not the exception to this rule. You also must be highly motivated to overcome your biases. Without strong internal motivation, research tells us that you will not be successful in conquering your biases.

2. **Identify your biases**

Implicit biases are, by definition, unknown. You can't hope to dismantle your implicit biases until you discover what they are. Start by taking the **Implicit Association Test offered free online by Harvard University**.

<https://implicit.harvard.edu/implicit/takeatest.html>

Have a supervisor or trusted colleague observe your interactions with court users and feedback on how you treated people of different backgrounds, race, gender, sexual orientation, and ethnicities.

3. **Decide which of your implicit biases to address first**

Don't try to tackle your implicit biases all at one time. Focus on the most pressing ones that impact your caseload and community.

4. **Identify and acknowledge individual differences**

Lady Justice wears a blindfold. You can't. You have to learn how differences in people may affect your thinking. You can do this by:

- Putting extra effort into identifying the unique aspects of stigmatized individuals.
- Being aware of what you're thinking when confronted by initial identifying factors that can lead to stereotyping (differences in race/ethnicity, gender, language, etc.).
- Appreciating the individual differences in people.

5. **Slow down**

Your biases are more likely to affect you and court users in times of stress. Do everything *on purpose* by being deliberate. Consider rules carefully. Don't run your caseload and court activities on autopilot.

Canon Four

PROPER USE OF PUBLIC RESOURCES

Probation officers, like all court employees are stewards of public resources. A probation officer shall use public resources, property, and funds judiciously and solely in accordance with prescribed procedures. Pitfalls include temptations such as personal phone calls at the court's expense and personal use of government property (such as office supplies, printers, computers, vehicles). The time a probation officer is paid to work is also a public resource. 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 DISCLOSE

A probation officer should expect coworkers to abide by the canons set forth in this code. A probation officer shall report violations of this code or attempts to compel another to violate this code. A probation officer must inform his or her employer if he or she is arrested in any jurisdiction or is involved in any pending legal action at the court of employment. When required by law, rule, or regulation, probation officers will dutifully disclose all financial interests and dealings.

Canon Six
CONFIDENTIALITY & 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 LEIN or the JDW have confidentiality restrictions. Probation officers should guard against being overheard when discussing legitimate confidential information. Probation officers should consult the nonpublic and limited access chart.

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. Participation in political activity should not enter the workplace by, for example, the display of political material (i.e., literature, badges, signs or other material advertising a political cause, party, or candidate), soliciting signatures for political candidates or issues, 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. When factually appropriate, probation officers shall make reports to other agencies (protective services and/or law enforcement). 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. Recognize that you are an extension of the court. Probation officers shall not impugn 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 means that once the court has made a decision the probation officer shall follow the decision.

Probation officers should respect the importance of all entities involved with the juvenile justice system and cultivate professional cooperation with each. For juvenile probation officers this includes, but is not limited to, state and local agencies, law enforcement, schools, etc.

Probation officers are not to alter, falsify, mutilate, backdate, or inappropriately destroy any court records.

Canon Ten
COMPETENCY

Laws and rules of operation are continually changing due to legislation, court rules, administrative orders, caselaw, technology, 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, being culturally proficient, and networking with other professionals.

¹ Holding 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.

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 extracurricular 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 and attending trainings 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/>

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 <https://courts.michigan.gov/Pages/default.aspx> to start your search.

Benchbooks and training materials can be found on the Michigan Judicial Institute website at <https://mjieducation.mi.gov>.

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 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 do not 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 did not 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.

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 4, Section E(4), addresses the extent to which judges and their family members may receive gifts. You should check with your court administrator and/or chief judge regarding your court's policy on employees receiving gifts.

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 have 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 is 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 overreacted.”

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: <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/pamphlets/bias.pdf>

Ethics impact your daily decision-making. When questioning whether 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?

How can you engage in bias-free behavior?

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

Youth and families coming into court typically have little time with the judge and/or referee. The court relies on probation officers to interview, investigate, and assess juvenile offenders, and recommend appropriate dispositions.

INTERVIEWING

During the first meeting with a family you should explain the court process, answer questions, and gather necessary information. It is often helpful to ask the family to provide documentation in the form of the youth's birth certificate, social security card, health insurance card, and last school report card.

It is best to conduct the initial interview with the juvenile and his/her family in your office, for at least three reasons. It minimizes external distractions, presents a formal beginning to the legal process, and sets the tone for probation.

You should have an outline or a written list of questions that need to be addressed. Many courts require face sheets, which list demographic information about the family, be prepared at the time of the initial interview.

When interviewing a juvenile and his/her parents, try to ask open-ended questions that will produce responses that you can "piggy-back" on and develop into the next question.

At no time during the interview process should promises be made in regards to the outcome of probation orders that might be created by the court. Explain that information from the interview will go into a report to the judge. All information shared by youth or parents should be weighed for relevance before it is included in a report.

Courts should also require that Release of Information forms be signed at this time so that you may obtain information from agencies that have dealt with the youth/family; including schools, counselors, treatment providers, special education records, and others. Release of Information forms should be as specific as possible, especially if you are seeking medical records. Healthcare providers are subject to Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations and are hesitant to release healthcare information not specifically requested. See the INFORMATION RELEASE AUTHORIZATION in the "sample forms" section at the end of Chapter 14.

If your court allows, subsequent interviews prior to the disposition hearing may occur in the family's home. Contacts can also be made with the juvenile at his or her school.

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.

It is important to maintain a working relationship with the youth and family. 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 issues that have brought the youth before the court. The youth and family should understand that the court needs sufficient information to make an appropriate disposition.

Nonverbal Communication and Body Language¹

Your facial expressions, gestures, posture, and tone of voice are powerful communication tools. Here's how to read and use body language to build better relationships at home and work.

What is body language?

While the key to success in both personal and professional relationships lies in your ability to communicate well, it's not the words that you use but your nonverbal cues or "body language" that speak the loudest. Body language is the use of physical behavior, expressions, and mannerisms to communicate nonverbally, often done instinctively rather than consciously.

Whether you're aware of it or not, when you interact with others, you're continuously giving and receiving wordless signals. All of your nonverbal behaviors—the gestures you make, your posture, your tone of voice, how much eye contact you make—send strong messages. They can put people at ease, build trust, and draw others toward you, or they can offend, confuse, and undermine what you're trying to convey. These messages don't stop when you stop speaking either. Even when you're silent, you're still communicating nonverbally.

In some instances, what comes out of your mouth and what you communicate through your body language may be two totally different things. If you say one thing, but your body language says something else, your listener will likely feel that you're being dishonest. If you say "yes" while shaking your head no, for example. When faced with such mixed signals, the listener has to choose whether to believe your verbal or nonverbal message. Since body language is a natural, unconscious language that broadcasts your true feelings and intentions, they'll likely choose the nonverbal message.

However, by improving how you understand and use nonverbal communication, you can express what you really mean, connect better with others, and build stronger, more rewarding relationships.

The importance of nonverbal communication

Your nonverbal communication cues—the way you listen, look, move, and react—tell the person you're communicating with whether or not you care, if you're being truthful, and how well you're listening. When your nonverbal signals match up with the words you're saying, they increase trust, clarity, and rapport. When they don't, they can generate tension, mistrust, and confusion. If you want to become a better communicator, it's important to become more sensitive not only to the body language and nonverbal cues of others, but also to your own.

¹ *Jeanne Segal, Ph.D., Melinda Smith, M.A., Lawrence Robinson, and Greg Boose.* Last updated: October 2020

Nonverbal communication can play five roles²:

- **Repetition:** It repeats and often strengthens the message you're making verbally.
- **Contradiction:** It can contradict the message you're trying to convey, thus indicating to your listener that you may not be telling the truth.
- **Substitution:** It can substitute for a verbal message. For example, your facial expression often conveys a far more vivid message than words ever can.
- **Complementing:** It may add to or complement your verbal message. As a boss, if you pat an employee on the back in addition to giving praise, it can increase the impact of your message.
- **Accenting:** It may accent or underline a verbal message. Pounding the table, for example, can underline the importance of your message.

Types of nonverbal communication

The many different types of nonverbal communication or body language include:

Facial expressions. The human face is extremely expressive, able to convey countless emotions without saying a word. And unlike some forms of nonverbal communication, facial expressions are universal. The facial expressions for happiness, sadness, anger, surprise, fear, and disgust are the same across cultures.

Body movement and posture. Consider how your perceptions of people are affected by the way they sit, walk, stand, or hold their head. The way you move and carry yourself communicates a wealth of information to the world. This type of nonverbal communication includes your posture, bearing, stance, and the subtle movements you make.

Gestures. Gestures are woven into the fabric of our daily lives. You may wave, point, beckon, or use your hands when arguing or speaking animatedly, often expressing yourself with gestures without thinking. However, the meaning of some gestures can be very different across cultures. While the "OK" sign made with the hand, for example, usually conveys a positive message in English-speaking countries, it's considered offensive in countries such as Germany, Russia, and Brazil. So, it's important to be careful of how you use gestures to avoid misinterpretation.

Eye contact. Since the visual sense is dominant for most people, eye contact is an especially important type of nonverbal communication. The way you look at someone can communicate many things, including interest, affection, hostility, or attraction. Eye contact is also important in maintaining the flow of conversation and for gauging the other person's interest and response.

Touch. We communicate a great deal through touch. Think about the very different messages given by a weak handshake, a warm bear hug, a patronizing pat on the head, or a controlling grip on the arm, for example.

Space. Have you ever felt uncomfortable during a conversation because the other person was standing too close and invading your space? We all have a need for physical space, although that need differs depending on the culture, the situation, and the closeness of the relationship. You can use physical space to communicate many different nonverbal messages, including signals of intimacy and affection, aggression or dominance.

² *The Importance of Effective Communication*, Edward G. Wertheim, Ph.D.

Voice. It's not just what you say, it's **how** you say it. When you speak, other people "read" your voice in addition to listening to your words. Things they pay attention to include your timing and pace, how loud you speak, your tone and inflection, and sounds that convey understanding, such as "ahh" and "uh-huh." Think about how your tone of voice can indicate sarcasm, anger, affection, or confidence.

How to read body language

Once you've developed your abilities to manage stress and recognize emotions, you'll start to become better at reading the nonverbal signals sent by others. It's also important to:

Pay attention to inconsistencies. Nonverbal communication should reinforce what is being said. Is the person saying one thing, but their body language conveying something else? For example, are they telling you "yes" while shaking their head no?

Look at nonverbal communication signals as a group. Don't read too much into a single gesture or nonverbal cue. Consider all of the nonverbal signals you are receiving, from eye contact to tone of voice and body language. Taken together, are their nonverbal cues consistent—or inconsistent—with what their words are saying?

Trust your instincts. Don't dismiss your gut feelings. If you get the sense that someone isn't being honest or that something isn't adding up, you may be picking up on a mismatch between verbal and nonverbal cues.

Evaluating nonverbal signals

Eye contact – Is the person making eye contact? If so, is it overly intense or just right?

Facial expression – What is their face showing? Is it masklike and unexpressive, or emotionally present and filled with interest?

Tone of voice – Does the person's voice project warmth, confidence, and interest, or is it strained and blocked?

Posture and gesture – Is their body relaxed, or stiff and immobile? Are their shoulders tense and raised, or relaxed?

Touch – Is there any physical contact? Is it appropriate to the situation? Does it make you feel uncomfortable?

Intensity – Does the person seem flat, cool, and disinterested, or over-the-top and melodramatic?

Timing and place – Is there an easy flow of information back and forth? Do nonverbal responses come too quickly or too slowly?

Sounds – Do you hear sounds that indicate interest, caring, or concern from the person?

Nonverbal signals communicate feelings and intentions. Your ability to understand and interpret these signals can help you to pick up on unspoken issues or negative feelings in others.

REPORT WRITING

The purpose of report writing is to provide the court with an accurate record of the interaction that occurs between the probation officer and the juvenile/family. Reports should capture relevant information. Reports chronicle the time frame between a youth's entry into, and his/her exit from, the justice system.

VARIOUS REPORTS

THE SOCIAL HISTORY INVESTIGATION—AND CASE PLANNING

Social History/Predisposition Report/Report of Investigation

Probation officers may have a good deal of influence over the disposition of a case, so the investigation and assembling information about the juvenile into a broad picture must be both detailed and objective. The report that results is sometimes referred to as a social history, predisposition report, or a Report of Investigation (ROI).

Scope of Investigation

The purpose of the social history investigation is to compile information regarding the youth's life including school, family, community, and any mental and physical health issues to formulate an appropriate case plan for the youth. It is important to stress to the youth and their parents that this information will not be used against them but will be used to formulate any future case plan.

I: Family

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

II: School

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

III: Counseling/Mental Health Treatment/Developmental Disabilities

A list of any therapists the youth has seen, prescribed medications, diagnoses, and any in or outpatient treatment, and special educational placements or assistance. It is important to get a picture of needs the youth may have.

IV: Physical Health

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

V: Substance Abuse

Questions regarding the age at which the youth 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 or sexual abuse (victim/offender);
- Gang involvement;
- Suicidal ideation/attempts;
- Runaways;
- Prior court involvement;
- Previous out-of-home placements.

The ROI is the first of what may be many reports, depending on the juvenile's progress. Probation officers must:

- Develop a detailed understanding of the juvenile;
- Determine the impact of the alleged offense on the victim(s);
- 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 anything in a report that you do not want the youth or parents to hear.

Recommended Case Plan

The ROI establishes the basis for the recommended case plan. 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 and/or family);
- 3) Community service;
- 4) Restitution;
- 5) School placement;
- 6) Employment.

It is important to follow any standard format established by your court and address all required items. You should make sure the judge is able to easily locate information in a report.

ROIs should be clear, concise, and complete

Certain general guidelines apply to all such reports: Be sure of facts. Clearly indicate what information has been established and how.

- Include only information that has value or relevance to the decision.
- Be specific. Avoid generalized descriptions ("frequently tardy") in favor of detailed or quantifiable facts ("tardy 13 times in October").
- Maintain objectivity. Do not state opinions as facts. Label them as opinions and attribute them to their proper source. Confine your opinions to the summary or assessment section of the report.
- Keep report language clear, simple, and grammatically correct. Avoid jargon. Be natural in your style. Refer to the juvenile by name and yourself as "I," rather than as the "offender" and the "officer".
- Keep the information brief, succinct, and user friendly, so that it is capable of being quickly and easily comprehended.
- Designate information that is known only by hearsay—that is, any information that has been learned from a third party whose credibility cannot be tested by cross-examination.

Typical Components of an ROI:

- Offense information:
 - Charges substantiated;
 - Additional facts developed at the adjudication hearing;
 - Whether the juvenile acted alone or with others;
 - Whether the juvenile acted as a leader or follower.
- Role of other participants and disposition of codefendants;
- Motivation for offense (e.g., personal gain, retribution, chemical dependency);
- Events preceding the offense;
- Condition of juvenile at time of offense (impaired by alcohol or drugs, emotional/angry);
- Whether the offense was premeditated or committed on impulse;
- Time of day the offense was committed;
- Whether the offense involved a weapon;
- Juvenile's statement regarding offense;
- Attitude about the offense (e.g., boastful, or ashamed, defiant, or remorseful);
- Attitude and concern toward the victim;
- Parental statement(s) regarding offense;
- Risks the juvenile poses to the community;
- Skills the juvenile needs to acquire;
- The juvenile's (and the juvenile's family's) strengths, resources, and receptiveness to intervention.

Much attention should be given to the closing summary. In this section, the probation officer justifies their recommendations. It should be assumed that the judge or referee and 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.

OTHER REPORTS

Quarterly Reports

Quarterly reports 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 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:

- Matter before the court;
- Case update (additional or new information brought to the court's attention);
- Recommendations (changed or left the same);
- Support (for changed recommendation).

Dispositional and/or Probation Violation (PV) Summaries

If, while on probation, the juvenile commits another offense, then a dispositional/PV summary is prepared (not a second report of investigation). The dispositional/PV summary will bring the court up-to-date from the previous hearing. After each additional violation of probation or charge, a dispositional/PV summary would be completed.

The dispositional summary should contain the following:

- 1) Probation officer'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;
- 6) Additions or modifications to treatment plan.

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

Institutional Placement Reports

Institutional reports require that the probation officer outline why he/she believes a juvenile should be placed in an institution. 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) Result 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 Michigan Department of Health and Human Services (MDHHS) to consider).

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

This lets the court know that the juvenile has satisfactorily complied with the court's order. It is important to understand that holding onto cases until everything is perfect may be unrealistic and will more than likely result in a caseload that is so large it becomes unmanageable. Satisfactory compliance is usually sufficient.

Dismissal for maximum benefits

Usually implies that all programs have been tried and limited success has been achieved. In preparing a dismissal summary, emphasis is on the conditions of probation adhered to and the progress, or lack of progress, made.

Upon submission of either of these reports, the court will typically conduct a dispositional review hearing to determine whether or not the youth should be discharged from probation.

COMMONALITIES OF ALL REPORTS

- A) Set time frames that include months, day, and date when certain requirements or probationary orders are to be completed.
- B) Set realistic goals for the juvenile. Perhaps it is unreasonable to consider that a juvenile can complete 200 hours of community service work, or for a 13-year-old with limited assets to pay \$1,000 in restitution within six months.
- C) 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.
- D) Be honest with the parents and the juvenile regarding the recommendations and statements presented to the court.
- E) Reports should tell a story in as few words as possible. Stick with the “who, what, where, and when” concept.
- F) Your next report should pick up where your last one left off. Reports may be read by others. Attorneys don’t know any history other than what clients have told them. Your report is very important.
- G) Greatest attention should be given to the closing summary of your report. Justification of your position, especially in contested matters, will be carefully scrutinized.
- H) Reports must be fair and accurate. Information contained in them becomes part of the record.
- I) 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.
- J) The probation officer must, at all times, be prepared to testify about statements contained in the report.

TESTIFYING IN COURT—EIGHT TIPS

Testifying in court can be nerve-racking. The stakes are high and, in many cases, a youth’s freedom is on the line. It’s imperative to put your best foot forward and answer questions to the best of your ability. In an effort to lessen the stress and help you feel more comfortable on the witness stand, here’s nine tips for testifying in court.

1. Be Prepared

It’s important to think about your testimony ahead of time and to review any materials at your disposal before walking into court. Refresh your memory by reviewing your notes and other information. Don’t try to predict questions and memorize answers, however. If your testimony comes across as scripted, you could lose credibility. It’s also a good idea to familiarize yourself with [courtroom etiquette](#), such as standing when the judge enters the courtroom, silencing your cellphone, and discarding your gum.

2. Dress Appropriately

Dress neatly and conservatively. Your appearance should signify that you are taking this matter seriously and that you respect the court and the judicial system. Wear

something that you would wear to a job interview or nice event. A suit or slacks and a collared shirt is appropriate for men, while a dress or pantsuit is suitable for women. A disheveled or overly dressy appearance can be distracting and detract from what you are saying.

3. Talk Slowly, Clearly, and Loudly

Because everything will be taken down by a court reporter, it is important to speak slowly and clearly. Be sure to respond “yes” or “no,” rather than shaking your head or nodding. “Uh-huhs” or “nahs” do not translate well. Also, try not to talk at the same time as anyone else, including the attorneys or judge. Wait for the question to be asked, listen to it carefully and then begin your answer. Make sure you speak loud enough for everyone to hear.

4. Only Answer the Question Being Asked

Many people who are in uncomfortable situations become very talkative or “nervous talk.” It’s very important not to “over-answer” or offer up additional information on the witness stand. Listen to the question, and answer only that question. Do not elaborate. Volunteering information can draw an objection or make you seem over-eager or even biased.

5. Stop Talking if an Objection is Made

If you hear the word “objection,” stop talking immediately. Wait for the judge to rule and to tell you to continue before speaking again. If the judge overrules the objection, you must answer the question. If the judge sustains the objection, you will not be allowed to answer and will likely be asked something else.

6. If You Do Not Know the Answer, Say So

If you do know or can’t remember something, say so. Don’t guess. Be careful when asked about specific dates, times, speeds, or measurements. Likewise, if you didn’t hear the question or don’t understand the question, say so.

7. Stay Calm

It’s important to keep your emotions in check on the witness stand. Remain calm and respectful, even if an attorney is peppering you with questions. Showing sarcasm or anger could cause you to lose credibility.

8. Be Honest and Correct Your Mistakes

Remember that you are under oath. If you did not answer a question accurately or made a mistake, correct it immediately. It’s better to correct a mistake or clarify yourself than to have an attorney discover it and make an issue out of it. Just tell the truth.

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 the eight tips to testifying in court?

Chapter 14: CASE MANAGEMENT

WORKING WITH JUVENILES

In this chapter, the specific work of a juvenile probation officer/caseworker will be examined.

Dr. Forest E. Witcraft, scholar and author, wrote in *“Within My Power - The Power of One Man”* (1950), gave one of the best descriptions of 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 [youth].”* One of the rewards of being a caseworker is the opportunity to make a difference in a juvenile’s life.

Expectations of Good Caseworkers

Probation officers play many roles: Enforcer, mentor, educator, confidant, cheerleader, role model, and sometimes as a parent figure. Whatever the role, there are several expectations of juvenile officers. They include:

- 1) Lead by Example.** Be ethical, law abiding, honest, and hard working. Youth 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.
- 3) Be Consistent.** If you tell them you will meet with them next Tuesday at 4:00 p.m., be there. If an emergency arises and you can’t make that appointment, be sure to contact them promptly.
- 4) Make a Connection.** Youth want to be treated as individuals. The best caseworkers are the ones who will take the time to establish rapport and take a genuine interest.
- 5) Be Patient.** It will take time to get into the role. Don’t expect perfection from yourself or the juveniles. Often, it may take a year or two for a caseworker to feel comfortable in their knowledge, skills, and abilities.

Good probation case management practice must be goal-driven, performance-based, and outcome-focused

Case management, a term that encompasses the core of the probation function, is the sum of all the activities the caseworker engages in to assist the probationer toward behavior change and accountability.

The probation officer facilitates the youth’s participation in the case plan, oversees the risk management component, monitors performance, and enforces compliance, while serving as a role model and a resource to the juvenile and family.

The case plan serves as the blueprint

The case plan is essentially a contract between the court/probation department, the juvenile, and their family.

The case plan should outline:

- (1) Clear goals and objectives;
- (2) Activities needed to accomplish those goals and objectives;
- (3) A time frame for completing each objective.

If the terms of the case plan are met, the juvenile should be granted some form of completion benefit.

Every case management plan must address community safety

The case plan should specify what level of case management and security is required to address the overall risk the youth poses to the community and how the juvenile's day will be structured in productive activities.

- What behaviors must be monitored and addressed to keep the community safe?
- How will the juvenile develop internal controls so that the community will be safe during and after case management?

Probation departments should have a range of case management activities and security restrictions available including:

- Different levels of case management (low, medium, and high intensity) with minimum contact standards/reporting requirements for each level;
- Probation/police surveillance teams;
- Electronic monitoring;
- Curfew;
- Substance use testing;
- Day and evening reporting program.

CASE MANAGEMENT FORMS AND OTHER TOOLS OF THE TRADE

The following pages, and the samples that appear at the end of this chapter, 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

Self-Help Meeting Sheet:

This form is given to the juvenile (or a family member if required to attend a self-help program). They fill out the date of the meeting, the location of the meeting, and the time of the meeting. **The topic of the meeting is very important.** It will help you determine if they really went to the meeting. The good thing about the “topic” area is that it is very hard to make up if they are not attending regular meetings.

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.

ORGANIZATIONAL FORMS

A Monthly Calendar

This can be used to help organize the juvenile who forgets probation, counseling, and other important dates and appointments. Appointments can also be automatically generated using their smart phone.

Probation Checklist

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 you keep 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, or for low-level offenses that do not require routine in-person meetings. 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 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

Is for use by those who need to/should write apology letters to victims. Often, they are used as part of a restorative justice program, or in diversion and consent calendar. You need to make sure apology letters are consistent with your court's policy, and that the victim is willing to receive an apology letter. If you are not sure, check with the victim services coordinator at your prosecuting attorney's office.

MISCELLANEOUS FORMS/IDEAS

Journal Ideas

At times, it is helpful to have juveniles' write about their lives, even daily. Benefits to journaling include helping the juvenile take a few 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.

Some Journal Ideas:

- First assignment: Write about your court experience today. What did the judge order? 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 their 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 the steps they are taking 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?

ADDITIONAL IDEAS

- Art journaling: Let your juvenile draw, paint, etc. to express how they are feeling.
- Assign books or videos 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(s) 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 or e-mails of encouragement.
- 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.
- At the end of probation, help them make a list of things they have achieved or changed while on probation.

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

Providing case management services to youth with special needs presents an additional challenge. If the youth has an IEP through their school, additional services are available to assist them achieve the case plan objectives.

A BRIEF OVERVIEW

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, an

IEP is available for all children with special education needs, from birth through age 25. The IEP is the specific vehicle for a disabled child's education.

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.

What Does an IEP do?

The IEP is the written individualized education program. This plan will guide the child's education for one year at a time. 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 timelines 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.

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.

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?

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 case management. The caseworker may be reached at _____.
 (telephone number)

School District: _____

Date Mailed: _____

By: _____

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:	

SELF-HELP MEETINGS

DATE	LOCATION & TIME	TOPIC	SIGNATURE (Chairperson)

DAILY INVENTORY OF: _____

CALENDAR FOR MONTH OF:

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY

PROBATION CHECKLIST

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

TIME MANAGEMENT							
	SUN	MON	TUES	WED	THUR	FRI	SAT
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 (s)he have paper, pencil, and books?	Did student have homework completed and turned in?	Did student participate? Did (s)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

SAMPLE 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. You may send this to victim's counselor with consent if known.)

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?

CHAPTER 15: Continuum of Services and Funding

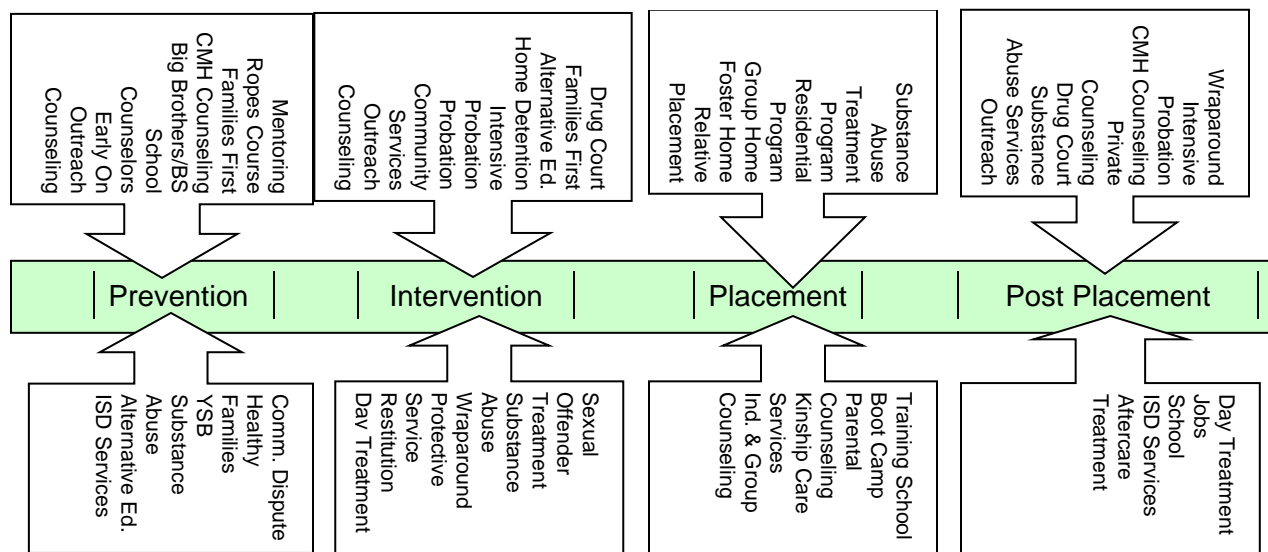
Continuum of Services

As a probation officer, you are most concerned with providing a case plan and services for youth. It is still important to know about the Continuum of Care and how various in-home care programs and out-of-home placements are funded.

Each jurisdiction is different, but the process to providing services is similar. The first step is to identify the services offered in your jurisdiction at the different phases of potential court involvement – prevention, intervention, placement, and postplacement (aftercare).

Example:

Continuum of Care



Programs should be reviewed regularly to determine their effectiveness. The cost of programs should be reviewed in comparison to the benefits and the availability of future funding should be considered. Gaps in services should also be identified and addressed accordingly.

Risk and Needs Assessment

Risk and needs assessments are usually conducted by intake officers, probation officers, caseworkers, or court administrators. They are tools that assist with identifying the risk level (low to high) for a youth to reoffend if nothing is done to intervene. They also assist with case service planning by identifying the areas to target for intervention that will be most effective in reducing the risk of harm to others and the community. The assessments also provide a level of service for the youth to ensure that they are receiving the correct measure amount of services. It can be a useful tool to determine the need for expanded, modified, or additional services, and, may indicate whether the community and other agencies would support a program.

Funding Overview

The State of Michigan provides financial incentives for development of alternatives to court intervention and court placements.

PA 150 AND PA 220 YOUTH

State Ward - Delinquent - Act 150: A child who has been **committed** to the Michigan Department of Health and Human Services (MDHHS) under the Youth Rehabilitation Services Act (1974 PA 150), according to one of the following requirements:

- The child is at least 12 years of age at the time of commitment by the juvenile court; and the offense for which the child is committed occurred prior to the child's 17th birthday; or;
- The child is at least 14 years of age when committed to MDHHS by a court of general criminal jurisdiction.

State Ward – Termination of Parental Rights – Act 220: A child who has been **committed** to the MDHHS following termination of parental rights by the family division of the circuit court. 935 PA 220. 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 Dependent) Youth:

The current **common funding sources** for the care of children and youth are:

1. Title IV-E (Neglect/Abuse & Delinquent) – Federal Funding

A. Cost Share:

The cost share is dependent on the type of placement. Approximately 50 percent state and 50 percent federal, for all licensed foster homes and eligible private childcare institutions.

B. 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 when they are initially removed from his or her home and placed under the care and placement of the MDHHS, 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 MDHHS.
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 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, low-risk private childcare institutions.

2. State Ward Board and Care (SWBC) – (Non-Title IV-E – Neglect/Abuse & Delinquent) – State Funding

- A. Cost Share: 50 percent state, 50 percent county.
- B. Description: To be eligible for SWBC funding, all of the following criteria must be met:
 - 1. The child is a state ward committed to MDHHS under PA 150 (delinquency) or PA 220 (dependent, abused, neglected).
 - 2. The child is not eligible for Title IV-E or is not in a Title IV-E fundable placement.
 - 3. The child is in a MDHHS supervised and approved out-of-home placement.
 - 4. The child has not attained age 19. An exception is a PA 150 ward who has had court jurisdiction extended to age 21 due to a class I or II criminal offense.

3. Child Care Fund (CCF)

The funding mechanisms are current as of May 2021. Child Care Fund Reimbursement related to the “Raise the Age” (Public Act 114 of 2019) legislation effective October 1, 2021, is discussed in the “Introduction and Overview” chapter of this manual.

- A. Cost Share:
 - Preadoptive Care: State, 100 percent.
 - Basic Grant: State, 100 percent up to \$15,000.
 - In-Home Care: State, 50 percent; county, 50 percent.
 - Child Care Fund: State, 50 percent; county, 50 percent.
- B. 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.
- C. 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 MDHHS. The grant is to support programs for youth under court jurisdiction who have at least two identified risk factors. The grant must be used to create programs or expand current programs that have proven to be alternatives to out-of-home placements for juvenile justice or neglected/abused youth.
- D. Child Care Fund: Expenditures that qualify for the state reimbursement of 50 percent are detailed and described in the Child Care Fund Rules and Child Care Fund Handbook available through MDHHS.

https://www.michigan.gov/documents/mdhhs/CCF_Policy_and_Procedures_Handbook_664899_7.pdf

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/Court Operated Child Care Facilities:**

Reimbursement is limited to the operating cost of the facility. There is no reimbursement for capital expenditure. There are limits to the eligibility of repair expenses.

2. **Out-of-Home Care (OHC) for Court Wards:**

Cost of the direct services to court wards placed in foster care, institutional care, or independent living are generally reimbursable.

The following provisions shall apply to expenditures for OHC for these expenditures to be eligible for CCF reimbursement:

- a. The care is ordered by the court and the child is supervised by the court or the county health and human services department.
- b. The care is voluntary, and **all** the following provisions apply:
 - a. The child is under 18 years of age;
 - b. A written, signed agreement has been received from the child's parent, legal guardian, or other custodian;
 - c. The agreement specifies the amount of financial support required from the parent;
 - d. Financial need is not the sole reason for the request for out-of-home care.
- c. A county department supervising children funded through the CCF shall document that it is approved. Judicial or court administrative costs are not reimbursable.

3. **In-Home Care (IHC) (approval component):**

Most costs, except judicial costs incurred in reducing out-of-home days of care, are reimbursable. These costs are limited to programs for youth who are within, or likely to come within, the jurisdiction of the circuit court or tribal court and must **completely fulfill one of the five circumstances** below:

- a. Service is an alternative to out-of-home care and all the following apply:
 - a written complaint, referral, or petition has been received and accepted by the court the expenditures are not for judicial costs;
 - the caseload size and services are intensive, not more than a 1 to 20 caseload and average of 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/guardian/custodian 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. Service is provided to youth who are ordered into IHC at the dispositional hearing as an alternative to out-of-home placement care and **both** of the following apply:
 - a. Services are intensive and are not provided through existing state and/or federal programs, regardless of eligibility;
 - b. Expenditures are not for judicial costs.

- d. The county department of health and human services may provide IHC services for Category I and II Children's Protective Services cases (or equivalent in tribal law cases), provided that **one** of the following apply to the service:
 - a. It is ordered as an alternative to out-of-home care;
 - b. It prevents the need to petition the juvenile court for removal or prevent placement in voluntary foster care;
 - c. It accelerates an early return home and services are directed at the family/parent/guardian/ anticipated placement for youth.
- e. Court-Appointed Special Advocate (CASA) programs utilized by the court, county or tribe, provided the program adheres to all national CASA standards, and any national CASA, or Michigan CASA policies and in accordance with Court Rules MCR 3.917, and as evidenced by the Certificate of Membership granted by Michigan CASA.
- f. 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*).

County General Fund

Costs for the court such as personnel, operations, building, due process, and other judicial costs are the responsibility of the county. Michigan Supreme Court Administrative Order 1985-5 requires that the county provide a professional caseworker for every 6,000 residents under the age of 19.

Resources and Funding

Movement through the Continuum of Care provides an array of funding sources. When considering the continuum of services, the court must look at all options for resources and funding sources, including:

1) Intermediate School District (ISD)

The ISD has financial responsibilities to provide special education services from birth through the twenty-fifth birthday. ISD's offer a range of services including work skills training opportunities through programs like *Michigan Works!* and services through the Early-On Program that provides programs to children with disabilities and/or delays, and their families from birth to three years old.

2) Community Mental Health (CMH)

CMH provides a variety of mental health services for Medicaid eligible children, adolescents, and adults based upon specific diagnosis, disability, and other criteria. In addition, private insurance companies also provide coverage for a variety of mental health services.

3) Schools

Provide services through their counseling departments, and many offer alternative education programs. These services include Individualized Education Plans (IEP) and 504 Plans (Behavior Plans) for students needing extra assistance academically and behaviorally. 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 times.

4) Agencies

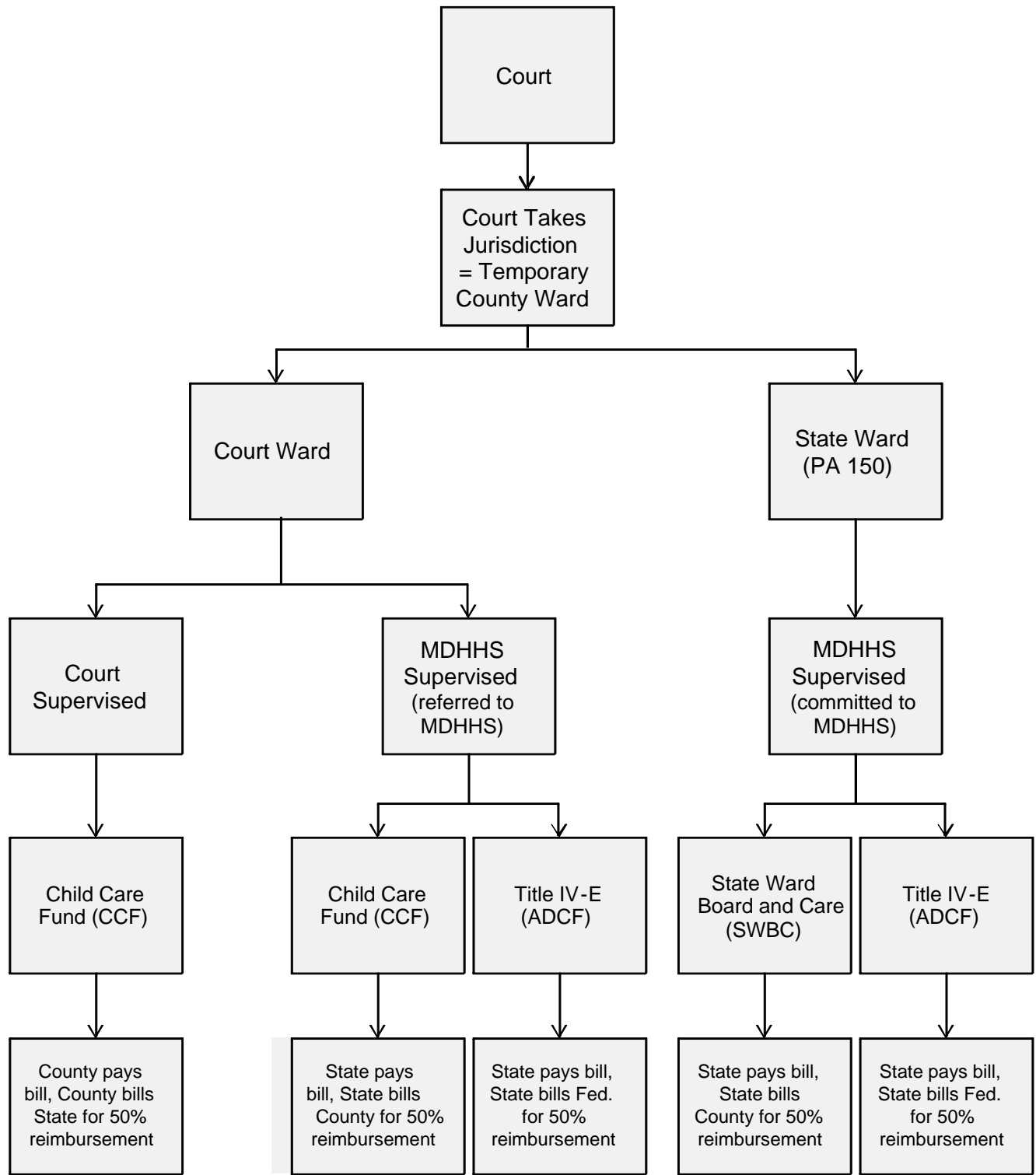
Many programs that serve court and MDHHS supervised youth are offered by agencies that receive funds in part from the United Way, Strong Families/Safe Children, and Child Safety and Permanency Planning. Programs such as Big Brothers/Big Sisters, Boys and Girls Club, mentoring, counseling programs, YMCA programs, victims' services, Healthy Families, sexual assault counseling, kinship care programs, Families First, Wraparound, etc., can provide important services to clients.

Why Consider Funding When Developing a Case Plan?

While the needs of the child should determine case planning, tight budgets require the court to utilize all possible resources to fund programs. The Child Care Fund, the General Fund, and IV-E funding are key to probation, intensive in-home care programs, and out-of-home placements, the court should also consider restitution, community service, allowable fines and costs, parental reimbursement, income tax intercepts, adoption subsidy, social security benefits, veteran's benefits, and private insurance.

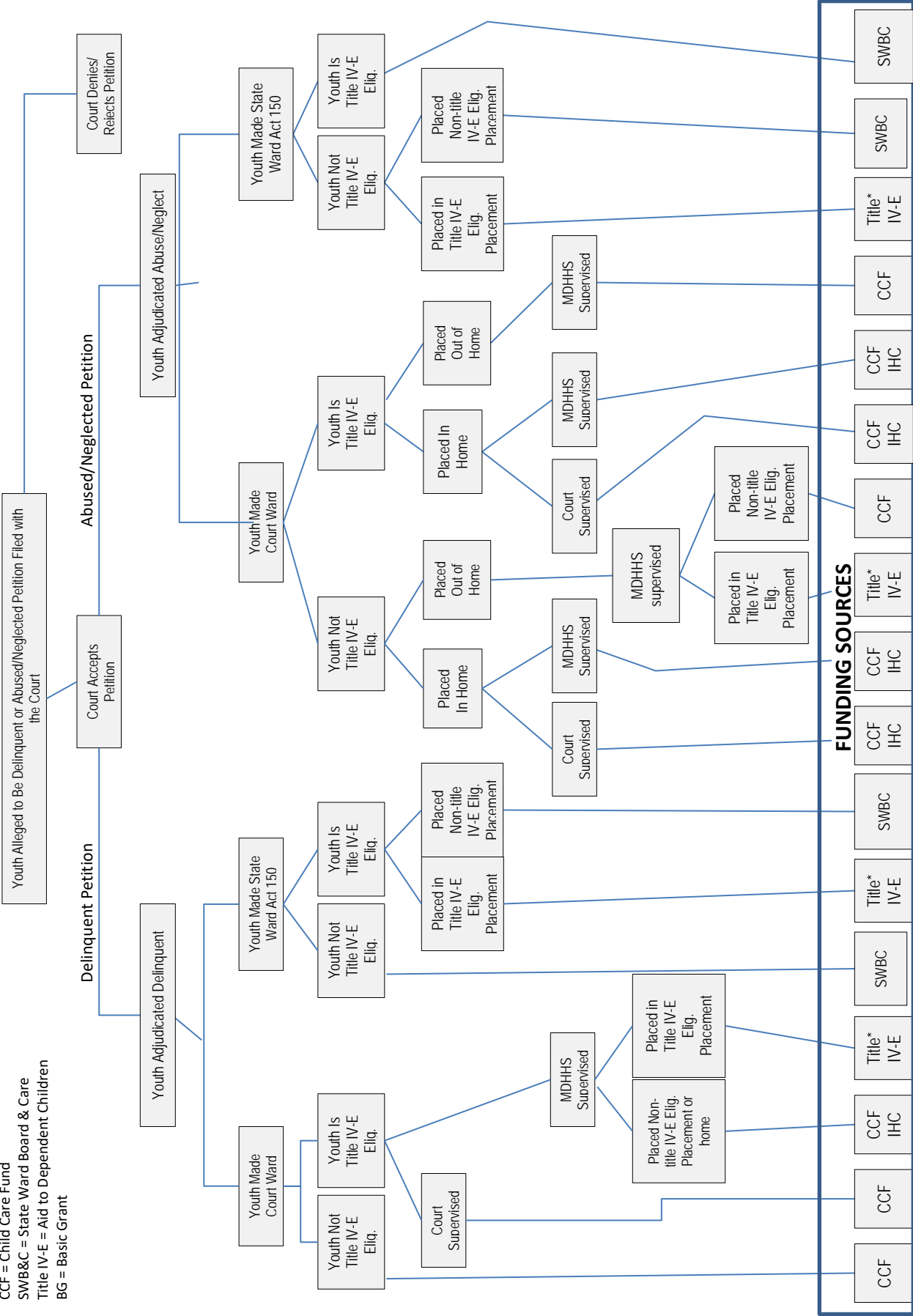
Charts of Services and Funding

The following charts represent the traditional methods of funding special in-home programs and placements:



Funding Source Chart #2

CCF = Child Care Fund
 SWB&C = State Ward Board & Care
 Title IV-E = Aid to Dependent Children
 BG = Basic Grant



If the following Title IV-E eligibility requirements are met.

1. Continuous 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. MDHHS responsible for out-of-home placement selection.
 NOTE: Funding is available for both state and court wards through Performance 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 of personal security measures. Talk with your supervisor about your court's policies and procedures. For a more thorough understanding of overall court security, please review the State Court Administrative Office (SCAO) court security guidelines:

https://courts.michigan.gov/Administration/SCAO/Resources/Documents/standards/cs_stds.pdf

The recent COVID-19 pandemic has brought public health issues for courts to the forefront. The Michigan Judicial Institute recognizes that probation staff are not ultimately responsible for court policy, but you should be aware of available resources. For information on how to improve legal preparedness for both public health emergencies and more routine public health cases, see the Public Health Law Bench Book for Michigan Courts. <https://mjieducation.mi.gov/documents/other-publications-2/431-public-health-law-bench-book-for-michigan-courts/file>

PERSONAL AND PHYSICAL SAFETY AWARENESS

According to incident data gathered by the Center for Judicial and Executive Security, the number of security threats and violent incidents in court buildings has increased dramatically in recent years. These incidents do not include additional disruptions to court operations from medical emergencies or workplace disruptions involving only court staff. Incidents are not isolated to any single court type, geographic area, or size of jurisdiction.

The goal of court security is to protect everyone using the building and who are part of the judicial process. This includes litigants, defendants, attorneys, jurors, the public, judges, and staff.

First Meeting with the Juvenile and 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.

- The first meeting should be held in your office. It sets the tone for your future interactions with the youth and their family.
- 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. Let them complete their answers/statements before you ask subsequent questions.

Potential for Violent Interaction

There is no magic bullet to predict when interactions may turn negative, but several common factors have been identified which can make people more inclined to violence. Some of these factors are:

- A history of violence. The single best indicator of violence, so you should be aware of past or current violent behavior. If a person has a history of violence, it is more probable that violence will happen again. Meetings with someone with a history of violent behavior should be arranged in a controlled environment with assistance present or readily available.

- Certain internal factors have been associated with aggressive encounters. These include fear, humiliation, boredom, grief, and a sense of powerlessness. To reduce risk, avoid putting youths in a situation that embarrasses them. Instead, try to give them knowledge that empowers them and help them see other, nonviolent, options.
- Physical factors increase the risk of violence as well. These include lack of sleep, physical exhaustion, use of drugs or alcohol, heat, hunger, cold, physical disability, or chronic pain. Be aware of the youth's physical condition and make accommodations, including rescheduling if necessary.
- Situational factors have also been found to be predictive of violence. Access to weapons, having experienced childhood abuse or aggression, or feeling a sense of injustice or oppression can lead to increased aggression.

Whether or not probation officers have information about a person's past history or current emotional state, there are signs to look for to determine agitation and possible aggression. Warning signs include:

- Clenching of fists or jaws;
- Having a "wild" look in the eyes;
- Being out of touch with reality;
- Speaking in a loud voice;
- Becoming verbally abusive.

If these behaviors occur, immediate steps to reduce the tension should be taken before the behaviors escalate to violence.

DE-ESCALATION STRATEGIES

The best way to manage violent behavior is to prevent it. However, that is not always possible. When a potentially violent situation threatens to erupt, verbal de-escalation is the preferred approach.

Steps to Verbally De-Escalate

The first step in verbal de-escalation is for probation officers to remain in control of themselves:

- Appear calm and self-assured even if you don't feel that way. Take a deep breath. Relax facial muscles and look confident. Anxiety can make a youth feel more anxious and unsafe which can escalate aggression.
- Use a modulated, low, monotonous tone of voice. The normal tendency when people are frightened is to have a high-pitched, tight voice, which can increase youth anxiety. Speak in a clear and direct manner. Be respectful, even when firmly setting limits or calling for help.

The second step is your body language and physical stance:

- Never turn your back for any reason.
- Try to be at the same eye level. Encourage youths to be seated, but if they need to stand, you should also stand up.
- Allow extra physical space between you and the youth – about four times the normal social distance, if possible.
- Do not stand squarely facing the youth. Position yourself at an angle so you can sidestep away if needed.

- Do not maintain constant eye contact. Youth may perceive “staring” as disrespectful.
- Do not smile. This could be perceived as mockery or anxiety.
- Do not touch them. Agitated youths can interpret this as hostile or threatening.
- Do not have the youth stand between you and the door.
- Use nonconfrontational body language. Move slowly. Avoid putting your hands on your hips. Do not point or shake your finger. Keep hands out of your pockets to indicate that you do not have a concealed weapon.

The third step in verbal de-escalation is the actual discussion:

- Do not be verbally defensive. Even if comments are directed at you, they are not personal.
- Use good communication skills. Be empathetic of their feelings but not their behavior. Do not solicit how they are feeling or interpret their feelings in an analytic manner. Just reflect their feelings and be nonjudgmental.
- Do not argue with them. Never tell a youth to “calm down.” By saying this, you communicate that you do not understand and accept their viewpoint. This, in turn, validates their anger.
- Do not get loud or try to yell over screaming youth. Wait until they take a breath and then talk calmly at an average volume.
- Do not use humor. Angry individuals may misinterpret this as being disrespectful.
- Attempting to distract or change the subject can sometimes work, but may further anger youth who realize you are diverting them.
- Respond selectively. Answer all informational questions, no matter how rudely asked. Do not, however, answer abusive questions.
- Explain limits and rules in an authoritative, firm, but respectful tone.
- Give choices, where possible, to alternatives that give youths a way out of the situation without embarrassment. For example, giving them the option of talking later or agreeing on a cooling-off period allows the youth to save face.
- Be patient. Physiologically, it takes a person about 30 to 40 minutes to calm down from anger.
- Trust your instincts. You may be able to tell within 2-3 minutes if de-escalation strategies are beginning to work. If you have done what you can to calm the situation but de-escalation is not working, stop. Tell the youth to leave, escort them to the door, call for help, or leave yourself and call for assistance, or call the police.

If Aggression Occurs

As much as probation officers would like to believe they can control any situation, they may not always be able to do so. Anger and aggression cannot always be contained. If that happens, the first step you should take is to leave the room and get away from the situation as quickly as possible. If that is not feasible, call for help and try to protect yourself as best as you can.

Some basic tactics to protect yourself until help arrives include:

- Try to protect yourself from head injuries by blocking blows with arms, clipboards, pillows, etc.;
- If you fall, block an attack with your feet and legs;
- If you are unable to get up, curl into a ball to protect your vital organs;
- If you are bitten, push into the bite, do not pull away;
- Use your fingers, fists, palms, elbows, knees, and feet as your weapons.

If You Conduct Home Visits

The more you know before going into the home, the better. It is also important to get to know 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, the route you are taking, 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 area 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 a policy that workers call in just before going into a house and then call back when they have exited.
- Be sure that all of your intake questionnaires include questions such as:
 - 1) "Do you have any dogs or other animals at home?" "How many?" "Will they be tied up or caged 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 personal protection order?" (Either as petitioner or respondent).
 - 5) "Who else lives in the home?"

It is important to remember that a home or neighborhood is not safe simply because you have been there before. Be observant of the outside of the home. Mentally prepare an escape route before going in.

- Be sure to lock your car door. Keep the key fob/car alarm handy.
- When going up to the door, listen before knocking.
- Do not stand directly in front of the 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, do not 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 transport juveniles, 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. 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.

CYBERSECURITY AWARENESS

The weakest link in any security system is always the same — people. No matter how comprehensive, effective, or expensive your security tools are, it can all come crashing down if a single careless user makes one simple mistake. Every time someone decides to click on an unfamiliar link or open a suspicious e-mail attachment, your court could be facing massive data loss and significant disruption.

To help strengthen your cyber security practices, you should be aware of some common corrupting techniques.

Phishing is the practice of sending fraudulent e-mails that resemble e-mails from reputable sources. The aim is to steal sensitive data like credit card numbers and login information. It is the most common type of cyber-attack. You can help protect yourself through education or a technology solution that filters malicious e-mails.

Ransomware is a type of malicious software. It is designed to extort money by blocking access to files or the computer system until the ransom is paid. Paying the ransom does not guarantee that the files will be recovered or the system restored.

Malware is a type of software designed to gain unauthorized access or to cause damage to a computer.

Social Engineering is a tactic used to trick you into revealing sensitive information. It is used to solicit a monetary payment or gain access to your confidential data. Social engineering can be combined with any of the threats listed above to make you more likely to click on links, download malware, or trust a malicious source.

Here is a list of 10 cybersecurity tips for anyone using the Internet:

1. Realize that you are an attractive target to attackers, and it can happen to anyone, anytime, anywhere, on any device. Don't ever say, "It won't happen to me."
2. Practice good password management. Use a strong mix of characters, and do not use the same password for multiple sites. Do not share your password with others and do not write it down — no post-it note attached to your monitor! If you have trouble remembering your passwords, consider using a secure password vault. Then you only have to remember one (very strong) password.
3. Never leave your devices unattended. If you need to leave your work or personal computer, phone, or tablet for any length of time — no matter how short — lock the screen so no one can use it while you are gone. If you keep sensitive information on a flash drive or external hard drive, make sure to lock those up as well.
4. Always be careful when clicking on attachments or links in e-mail. If an e-mail is unexpected or suspicious for any reason, do not click on it. Even if it seems like it is from your chief judge. Scammers can look up information online and use it to target individuals in your court. Double-check the uniform resource locator of the website to see if it looks legitimate. Bad actors will often take advantage of spelling mistakes to direct you to a harmful domain. Never open an attachment unless you are sure of the source.

5. Sensitive browsing, such as banking or shopping, should only be done on a device that belongs to you, on a network that you trust. Whether you are using a friend's phone, a public computer, or free Wi-Fi at a coffee shop — your data could be copied or stolen.
6. Back up your data regularly. Make sure your antivirus software is always turned on and up-to-date.
7. Be conscientious of what you plug in to your computer. Malware can be spread through infected flash drives, external hard drives, and even smartphones.
8. Watch what you are sharing on social networks. Criminals can find you and easily gain access to a shocking amount of information — where you shop, where you live, where you work, details about your family, when you are on vacation — that could help them gain access to more valuable data.
9. Be wary of social engineering, where someone attempts to gain information from you through manipulation. If someone calls or e-mails you asking for sensitive information like login information or passwords, it is okay to say “no.” You can always call the company directly to verify credentials before giving out any information.
10. Be sure to monitor your accounts for any suspicious activity. If you see something unfamiliar, it could be a sign that you have been compromised. Don't be afraid to speak up and tell your IT team if you notice anything unusual. Remember, you are the victim of the attack, and you are not in trouble!

SOME WAYS COURTS CAN IMPROVE OVERALL SAFETY

NEEDS ASSESSMENT AND FUNDING

All courts need to regularly assess their security needs. For example, the public has come to accept the presence of metal detectors and security officers in many court facilities. Therefore, it will not come as a shock if everyone, including judges and court staff, has to walk through a security screening before entering the facility.

Funding must also be considered; effective security involves cost. The court and the funding unit must squarely confront these issues to determine the extent to which type of security will be provided, or the amount of risk that will be accepted.

RECOMMENDED COURT SECURITY STANDARDS

Security Advisory Committee

Your chief judge and court administrator should create a permanent security advisory committee to develop and assist with the oversight of a court security program. Michigan Supreme Court Administrative Order 2019-1 requires each court to establish a security committee, and to submit that plan to the Supreme Court for approval.

Incident Reporting

Your court should have an incident reporting form to use for *all* incidents, no matter how minor they may seem at the time. A policy for reporting all incidents will document either effectiveness of, or the need for changes to, security or 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.

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

The court should consider purchasing communication devices for use by any court staff while in the field, in emergencies, or to call for assistance.

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, ensuring their own safety, as well as the well-being of the probationer. The court should provide adequate equipment to allow staff to carry out this function.

Questions for Review:

Why is security important?

What are some things you can do to assist with your own security?

How can you de-escalate violent situations?

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?

What is cybersecurity and why is it important to be aware of cybersecurity attacks?

What are some things your court can do to assist with your security?

Chapter 17: Drugs of Choice

The present “heroin (opioid) epidemic” is a huge public health issue. Opioids are a class of drugs that include the illicit drug heroin as well as prescription pain relievers like oxycodone, hydrocodone, codeine, morphine, fentanyl, carfentanyl, and others. Opioids interact with receptors on nerve cells in the brain and nervous system to produce pleasurable effects and relieve pain. For more information on Michigan’s response and opioid resources, see <https://www.michigan.gov/opioids/>. Governor Gretchen Whitmer’s goal is to cut opioid overdose deaths by half in by 2024. For information on opioid resources for courts, see:

<https://courts.michigan.gov/News-Events/Pages/Opioid-Resources-for-Michigan-Courts.aspx>

Heroin is an opioid drug made from morphine, a natural substance taken from the seedpod of the various opium poppy plants grown in Asia, Mexico, and Colombia. Heroin can be a white or brown powder, or a black sticky substance known as black tar heroin. Other common names for heroin include *big H*, *horse*, *hell dust*, and *smack*.

How do people use heroin?

People inject, sniff, snort, or smoke heroin.

What are the effects of heroin?

Heroin enters the brain rapidly and binds to receptors on cells located in many areas, especially those involved in feelings of pain and pleasure and in controlling heart rate, sleeping, and breathing.

Short-Term Effects

People who use heroin report feeling a “rush” (a surge of pleasure, or euphoria). However, there are other common effects, including:

- dry mouth;
- warm flushing of the skin;
- heavy feeling in the arms and legs;
- nausea and vomiting;
- severe itching;
- clouded mental functioning;
- going “on the nod,” a back-and-forth state of being conscious and semiconscious.

Long-Term Effects

People who use heroin over the long-term may develop:

- insomnia;
- collapsed veins for people who inject the drug;
- damaged tissue inside the nose for people who sniff or snort it;
- infection of the heart lining and valves;
- abscesses (swollen tissue filled with pus);
- constipation and stomach cramping;
- liver and kidney disease;
- lung complications, including pneumonia;
- mental disorders such as depression and antisocial personality disorder;
- sexual dysfunction for men;
- irregular menstrual cycles for women.

Injection Drug Use, Human Immunodeficiency Virus (HIV), and Hepatitis

People who inject drugs such as heroin are at high risk of contracting the HIV and hepatitis C (HCV) virus. These diseases are transmitted through contact with blood or other bodily fluids, which can occur when sharing needles or other injection drug use equipment. HCV is the most common blood-borne infection in the United States. HIV (and less often HCV) can also be contracted during unprotected sex, which drug use makes more likely.

Other Potential Effects

Heroin often contains additives, such as sugar, starch, or powdered milk that can clog blood vessels leading to the lungs, liver, kidneys, or brain, causing permanent damage. In addition, sharing drug injection equipment and having impaired judgment from drug use can increase the risk of contracting infectious diseases such as HIV and hepatitis.

Can a person overdose on heroin?

Yes, a person can overdose on heroin. A heroin overdose occurs when a person uses enough of the drug to produce a life-threatening reaction or death. Heroin overdoses have increased in recent years.

When people overdose on heroin, their breathing often slows or stops. This can decrease the amount of oxygen that reaches the brain, a condition called hypoxia. Hypoxia can have short and long-term mental effects and effects on the nervous system, including coma and permanent brain damage.

How can a heroin overdose be treated?

Naloxone is a medicine that can treat an opioid overdose when given right away. It works by rapidly binding to opioid receptors and blocking the effects of heroin and other opioid drugs. Sometimes more than one dose may be needed to help a person start breathing again, which is why it is important to get the person to an emergency department or a doctor to receive additional support if needed.

Naloxone is available as an injectable (needle) solution, a hand-held auto-injector (EVZIO®), and a nasal spray (NARCAN® Nasal Spray). Friends, family, and others in the community can use the auto-injector and nasal spray versions of Naloxone to save someone who is overdosing. The rising number of opioid overdose deaths has led to an increase in public health efforts to make Naloxone available to at-risk persons and their families, as well as first responders and others in the community. Some states have passed laws that allow pharmacists to dispense Naloxone without a prescription from a person's personal doctor.

For more information on entities or individuals in Michigan that may administer Naloxone, see MCL 333.7109.

Prescription Opioids and Heroin

Prescription opioid pain medicines such as OxyContin® and Vicodin® have effects similar to heroin. Research suggests that misuse of these drugs may open the door to heroin use. Nearly 80percent of Americans using heroin (including those in treatment) reported misusing prescription opioids first.

While prescription opioid misuse is a risk factor for starting heroin use, only a small fraction of people who misuse pain relievers switch to heroin. According to a national survey, less than four percent of people who had misused prescription pain medicines started using heroin. This suggests that prescription opioid misuse is just one factor leading to heroin use.

Medication-Assisted Treatment for Opioid Use Disorder

Medication-assisted treatment (MAT) is the use of medications in combination with counseling and behavioral therapies, which is effective in the treatment of opioid use disorders (OUD) and can help some people to sustain recovery.

The American Academy of Pediatricians Recommendations¹

1. Opioid addiction is a chronic relapsing neurologic disorder. Although rates of spontaneous recovery are low, outcomes can be improved with medication-assisted treatment. The American Academy of Pediatrics (AAP) advocates for increasing resources to improve access to medication-assisted treatment of opioid-addicted adolescents and young adults. This recommendation includes both increasing resources for medication-assisted treatment within primary care and access to developmentally appropriate substance use disorder counseling in community settings.
2. The AAP recommends that pediatricians consider offering medication-assisted treatment to their adolescent and young adult patients with severe opioid use disorders or discuss referrals to other providers for this service.
3. The AAP supports further research focus on developmentally appropriate treatment of substance use disorders in adolescents and young adults, including primary and secondary prevention, behavioral interventions, and medication treatment.

Fentanyl

There has also been much publicity about users mixing heroin with fentanyl. Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent. It is a schedule II prescription drug, and is typically used to treat patients with severe pain or to manage pain after surgery. It is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids. In its prescription form, fentanyl is known by such names as Actiq[®], Duragesic[®], and Sublimaze[®]. Street names for fentanyl or for fentanyl-laced heroin include Apache, China Girl, China White, Dance Fever, Friend, Goodfella, Jackpot, Murder 8, TNT, and Tango and Cash.

Drug Schedules

Drugs, substances, and certain chemicals used to make drugs are classified into five distinct categories or schedules depending upon the drug's acceptable medical use and the drug's abuse or dependency potential. The abuse rate is a factor in the scheduling of the drug; for example, Schedule I drugs are considered the most dangerous class of drugs with a high potential for abuse and potentially severe psychological and/or physical dependence.²

¹ <https://pediatrics.aappublications.org/content/early/2016/08/18/peds.2016-1893>

² See the U.S. Drug Enforcement Administration webpage at <https://www.dea.gov/drug-scheduling>

HOW DRUGS ARE CLASSIFIED IN THE US

SCHEDULE	DESCRIPTION	EXAMPLES
Schedule 1	Drugs with no currently accepted medical use and a high potential for abuse. They are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence.	<ul style="list-style-type: none"> - Heroin - Lysergic acid diethylamide (LSD) - Marijuana (Cannabis) - Methylenedioxymethamphetamine (Ecstasy) - Methaqualone - Peyote
Schedule 2	Drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence. These drugs are also considered dangerous.	<ul style="list-style-type: none"> - Combination products with less than 15mg of hydrocodone per dosage unit (Vicodin) - Cocaine - methamphetamine - Methadone - Hydromorphone (Dilaudid) - Meperidine (Demerol) - Oxycodone (OxyContin) - Fentanyl - Dexedrine - Adderall - Ritalin
Schedule 3	Drugs with a moderate to low potential for physical and psychological dependence. Schedule 3 drugs abuse potential is less than Schedule 1 and Schedule 2 drugs but more than Schedule 4.	<ul style="list-style-type: none"> - Products containing less than 90mg of codeine per dosage unit (Tylenol and codeine) - Ketamine - Anabolic steroids - Testosterone
Schedule 4	Drugs with a low potential for abuse and low risk of dependence.	<ul style="list-style-type: none"> <li style="width: 50%;">- Xanax <li style="width: 50%;">- Ativan <li style="width: 50%;">- Soma <li style="width: 50%;">- Talwin <li style="width: 50%;">- Darvon <li style="width: 50%;">- Ambien <li style="width: 50%;">- Darvocet <li style="width: 50%;">- Tramadol <li style="width: 50%;">- Valium
Schedule 5	Drugs with lower potential for abuse than Schedule 4 and consist of preparations containing limited quantities of certain narcotics. Schedule 5 drugs are generally used for antidiarrheal, antitussive, and analgesic purposes.	<ul style="list-style-type: none"> - Cough preparations with less than 200mg of codeine per 100ml (Robitussin AC) - Lomotil - Motofen - Lyrica - Parepectolin

SOURCE: Drug Enforcement Administration

BUSINESS INSIDER

MONITORING THE FUTURE NATIONAL SURVEY RESULTS ON DRUG USE

Key Findings on Adolescent Drug Use 1975-2020³

Monitoring the Future (MTF) is a long-term study of substance use and related factors among U.S. adolescents, college students, and adult high school graduates through age 55. It is conducted annually and supported by the National Institute on Drug Abuse. MTF findings identify emerging substance use problems, track substance use trends, and inform national policy and intervention strategies.

³ <https://www.drugabuse.gov/publications/drugfacts/monitoring-future-survey-high-school-youth-trends>

The key findings regarding use of various substances by 8th, 10th, and 12th graders surveyed across the U.S. in 2020 are summarized below. The year 2020 was an unusual year for the study in that data collection was halted earlier than usual, in March of that year, as a result of the emerging COVID-19 epidemic. This resulted in smaller samples being obtained that year. The previous year, 2019, was unusual in a different way—it was the year that the study was transitioning from using paper and pencil questionnaires in schools to having students use electronic tablets. A random half of all respondents in 2019 used the older mode of administration while the other half used tablets. How we dealt with these two disruptions to the ongoing series will be described below.

It should be noted that the 2020 data collection occurred early in 2020, so it does not cover most of the period of the pandemic, nor of its effects.

The most important finding to emerge from the 2020 survey is that the dramatic increase in the 30-day prevalence of vaping by adolescents, observed in the two prior years, leveled and even reversed some in 2020. Vaping nicotine also showed sharp increases over the same interval, with 30-day prevalence more than doubling in all three grades, rising from 11.0 percent in 2017 to 25.5 percent in 2019 among 12th graders. Vaping of marijuana in the prior 30 days increased from 2018 to 2019 but in 2020 the trend lines for 10th and 12th grades—where use tends to be highest—reversed direction in vaping nicotine and vaping marijuana. While the declines were not large or statistically significant, at least they were declines.

Little Change in Marijuana or Overall Drug Use

In 2020, daily marijuana rates decreased slightly in among 8th and 10th graders was slightly lower. Synthetic marijuana use in the past 12 months decreased significantly in 8th grade and a little in the upper grades. Since first being measured in 2011 in 12th grade, use has fallen by more than two-thirds. Annual use of any illicit drug, which tends to be driven by marijuana—by far the most prevalent of the illicit drugs, did not change significantly in any grade in 2020.

Few Illicit Drugs Show Declines in Use

Relatively few drugs exhibited a significant decline in use in 2020, although the use of most drugs is well below the peak levels recorded by the survey in previous years. Annual prevalence of crystal methamphetamine declined significantly at 12th grade—the only grade in which it is asked.

Use of Most Illicit Drugs Held Steady in 2020

The MTF study tracks many classes of drugs and the majority of them held relatively steady among secondary school students in 2020. These included LSD, hallucinogens other than LSD, MDMA (ecstasy, Molly), cocaine, crack, heroin (overall, and when used with or without a needle), Oxycontin, amphetamines (taken as a class), Ritalin, Adderall, sedatives, tranquilizers, methamphetamine, Rohypnol, GHB, Ketamine, and steroids.

While not strictly considered illicit drugs, over the counter cough and cold medications used to get high (most of which contain dextromethorphan) increased significantly for the three grades combined in 2020 to an annual prevalence of 3.7 percent (up almost one whole percentage point).

Psychotherapeutic Drugs

Use of psychotherapeutic drugs outside of medical supervision warranted special attention as a substantial part of the overall U.S. drug problem in the 2000s. This was in part due to increases in nonmedical use of many prescription drugs over that period, and in part due to the fact that use of many of the street drugs declined substantially after the mid- to late-1990s. It seems likely that young people are less concerned about the dangers of using these prescription drugs outside of medical regimen because they are widely used for legitimate purposes. (Indeed, the low levels of perceived risk for sedatives and amphetamines observed among 12th graders illustrate this point.) Also, many prescription psychotherapeutic drugs are now being advertised directly to the consumer, which implies that they are both widely used and safe. Fortunately, the use of most of these drugs by youth has declined.

Given the epidemic of narcotics misuse in older populations along with concurrent rise in medical emergencies and overdose deaths, it is particularly good news that young people are moving away from the use of these drugs. This is good news not only because they will be less vulnerable to tragedies resulting from the use of these drugs during adolescence, but also because they may well take their more cautious behaviors with them into their twenties, thirties, and beyond—ages in which overdose deaths are currently most prevalent.

Several Forms of Tobacco Use Continued to Decline, but Not Cigarettes

Cigarette smoking has had a long and very substantial decline since the mid-1990s, but showed almost no further decline in 2020 in the two lower grades and even a slight increase in use among 12th graders. Overall increases in perceived risk and disapproval appear to have contributed to the downturn in cigarette use. It seems likely that some of the long-term attitudinal change surrounding cigarettes is attributable to the considerable adverse publicity aimed at the tobacco industry in the 1990s, as well as a reduction in cigarette advertising and an increase in antismoking campaigns reaching youth. Most forms of combustible tobacco use other than cigarette smoking have been in decline in recent years too.

- Annual prevalence of smoking tobacco using a hookah (water pipe) had been increasing steadily until 2014 among 12th graders (8th and 10th graders are not asked about this practice), reaching 23 percent in 2014; but use has been declining steadily since, by almost three-quarters as of 2019. (The sample size was inadequate to make an estimate for 2020.)
- Smokeless tobacco. From the mid-1990s to the early 2000s, smokeless tobacco use declined substantially, but a rebound in use developed from the mid-2000s through 2010. Since 2010, prevalence levels have declined considerably in all three grades.

Alcohol

After a long period of decline among adolescents, the use of alcohol appears to be stabilizing. In 2020 there were no further significant declines observed in any of the three grades under study in lifetime, annual, 30-day, daily, or five or more drinks in a row prevalence rates. Despite substantial declines in prevalence longer term, there has been some gradual increase in the prevalence of binge drinking over the past two years in all grades. To some degree, alcohol trends have tended to parallel the trends in illicit

drug use. These include a modest increase in binge drinking (defined as having five or more drinks in a row at least once in the past two weeks). In 2020, 30-day alcohol use for the three grades combined increased significantly. In 2020, there were significant increases in lifetime, annual 30-day, and current daily alcohol prevalence for the three grades combined. This may herald the end of the longer-term decline in adolescent alcohol use

COMMONLY USED [ILLICIT] DRUGS AND THEIR EFFECTS: MICHIGAN

NOTE: Even as this chapter is being written, illicit manufacturers are designing new legal and illegal mood-altering substances. The reader is invited to contact the Michigan Judicial Institute with any updated information.

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, tipple, toddy, scoops, and sauce.

Marijuana (aka Marihuana)

It is no longer an "illicit" drug in Michigan as it is approved for medical use by all and recreational use by adults. It remains illegal on the federal level and recreational use is illegal for anyone under the age of 21.

Marijuana 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 marijuana determines how strong its effects will be on the user.

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 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.

In a recent study of over 23,000 individuals, adolescent cannabis consumption was associated with increased risk of developing depression and suicidal behavior in later life.⁴

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 marihuana use.

Medical Marihuana in Michigan is regulated by the Department of Licensing and Regulatory Affairs (LARA).

Recreational Marihuana

Effective December 6, 2018, the recreational use and possession of marihuana was legalized for individuals age 21 and over. This act does not authorize transfer of marihuana or marihuana accessories to a person under the age of 21 or any person under the age of 21 to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana. Despite the language outlining the limits of legal use and possession of marihuana in the statutes, many questions remain regarding the application of the new laws.

The American Academy of Child and Adolescent Psychiatry⁵ has noted that marijuana legalization, even if restricted to adults, may be associated with, (a) decreased adolescent perception of marijuana’s harmful effects, (b) increased marijuana use among parents and caretakers, and (c) increased adolescent access to marijuana, all of which reliably predict increased rates of adolescent marijuana use and associated problems.

⁴ Gobbi, G., Atkin, T, et al., JAMA Psychiatry, February 13, 2019

⁵ [Marijuana.Legalization\(aacap.org\)](http://Marijuana.Legalization(aacap.org))

The State Court Administrative Office recommends that cases involving juveniles (16 and under), should follow a process similar to the MIP cases where the court must determine whether it wants to keep these cases or waive jurisdiction over civil infractions committed by juveniles and allow the district court to process. If the family division chooses to handle those cases, they should be treated like any other juvenile case that is a civil infraction.

Hashish

Hashish (or hash) oil is a stronger form of marijuana. Hashish is made by taking the resin from the leaves and flowers of the marijuana plant and pressing them into cakes or slabs and smoked through an “oil rig” which is a pipe similar to a bong. This is known as “dabbing.” Hash may contain five to ten times as much THC as other forms of marijuana. See, also, Wax, Shatter, and Crumble:

<https://detroitherbalcenter.com/what-is-the-difference-between-wax-live-resin-shatter-and-crumble/>

Synthetic Marijuana

Also known as “K2,” “Spice,” “Sence,” “Yucatan Fire,” “Skunk,” or “Genie” and other names. 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 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 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. K2 is an illegal substance. However, chemists are developing new strains of synthetic marijuana every day.

Some Drug and Alcohol Screening and Assessment Tools

An estimated 1.3 million U.S. adolescents ages 12 to 17 have a substance use disorder (5 percent of all adolescents).

General Assessment Tools

The National Institute on Drug Abuse (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 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 Screening and Brief Intervention for Youth: A Practitioner's Guide is designed to help health care professionals quickly identify youth at risk for alcohol-related problems. The National Institute on Alcohol Abuse and Alcoholism (NIAAA) developed the guide in collaboration with the American Academy of Pediatrics, a team of underage drinking researchers and clinical specialists, and practicing healthcare professionals.

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 (ADI) 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 alcohol and other drug (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 (Note: Medication-Assisted Treatment is discussed previously in this chapter)

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.

Access reliable information instantly from the Internet from the following sites:

The National Institute on Drug and Abuse has national statistics and the latest research findings available. <https://www.drugabuse.gov/>

The Partnership for a Drug-Free America has a drug database to help parents identify specific drugs, their effects, and drug paraphernalia. <https://drugfree.org/>

The Substance Abuse and Mental Health Services Administration.
<https://www.samhsa.gov/>

Questions for Review:

How has the opioid epidemic affected youth?

What is Medication-Assisted Treatment?

What are the findings of the Monitoring the Future report?

Can youth use medical marijuana/marihuana? Recreational marijuana/marihuana?

What are some common assessment tools?

What biological testing is generally reliable?

Where can you find more resources on drug abuse?

Chapter 18: Juvenile Sexual Offenders and Working with Youth who Exhibit Problematic Sexual Behaviors, Assessment, and Treatment

This chapter focuses on both youth who sexually offend and youth who may present themselves to the juvenile justice system for other reasons, but who engage in problematic sexual behavior. Assessment and interventions for these populations is similar, so they are treated as such throughout this chapter.

Research into adult sexual offenders dates back many years, but when a young person committed a sexual offense back then, it was seen as experimental or developmental curiosity. And, much of the theory and research on juveniles focused more on the person and neglected to explore and understand the behavior and the context in which these behaviors occur. This perspective lent itself to the misconception that juveniles who commit a sexual offense are destined to a life of sexual crime and are predators who need to be managed and punished.

Despite considerable concern about progression to later adolescent and adult sexual offending, the available evidence suggests that children with Sexual Behavior Problems (SBP) are at very low risk to commit future sex offenses, especially if provided with appropriate treatment. After receiving appropriate short-term outpatient treatment, children with SBP have been found to be at no greater long-term risk for future sex offenses than other clinic children (2-3%)¹.

The Problem

Unusual sexual behavior by adolescent youth is a serious problem. As such, these youth merit careful professional attention and, at times, legal intervention. The public, its representatives, legal professionals, and clinical practitioners have a common goal of community safety and no more victims.

Sexual Assault and Sex Offenders

For a thorough understanding of the laws governing sexual assault, please refer to the Michigan Judicial Institute *Sexual Assault Benchbook*:
<https://mjieducation.mi.gov/benchbooks/sexual-assault>.

OFFENSES UNDER SEX OFFENDER REGISTRATION ACT (SORA)

TIER I, TIER II, AND TIER III OFFENSES

Offenses under the SORA are 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(j). **Note:** Juvenile adjudications are not included on the public Internet website; juvenile adjudications appear only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

Tier I Offenses/Offenders

¹ Association for the Treatment of Sexual Abusers Task Force on Children with Sexual Behavior Problems:
<https://www.atsa.com/pdfs/Report-TFCSBP.pdf>

Tier I offender defined

A Tier I offender is the lowest level offender; an individual who has been previously convicted of a Tier I offense and who is not a Tier II or Tier III offender. MCL 28.722(r).

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), pay the \$50 initial registration fee as well as a \$50 annual registration fee required by MCL 28.727(1), unless indigent.

List of Tier I offenses

Tier I offenses are listed in MCL 28.722(s)(i)-(ix):

Length of registration for Tier I offenders

A Tier I offender must register under the SORA for 15 years. MCL 28.725(10).

Tier II Offenses/Offenders

Tier II offender defined

A Tier II offender is a higher level offender:

- 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).

Required reporting

After his or her initial verification or registration, a Tier II offender must report semiannually, once in January and once in July of each year; MCL 28.725a(3)(b), pay his or her \$50 initial registration fee, (and a \$50 annual registration fee required by MCL 28.727(1) unless indigent.

Length of registration

A Tier II offender must register under the SORA for 25 years. MCL 28.725(11).

List of Tier II offenses

Tier II offenses are listed in MCL 28.722(u)(i)-(xii)

Tier III Offenses/Offenders

Tier III offender defined:

A Tier III offender the highest level offender; 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).

Required reporting

After his or her initial verification or registration, a Tier III offender must report every April, July, October, and January of each year. MCL 28.725a(3)(c), pay the \$50 initial registration as well as a \$50 annual registration fee unless 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):

“Romeo & Juliet” Exceptions to Registration under 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) applies to criminal and juvenile 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.

The circumstances surrounding the crimes are satisfied; the conduct does not qualify as a listed offense, and does not require registration 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), (vi), or (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)(vi). 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).

Juveniles Excluded from the Public Internet Website

Juvenile adjudications are excluded from the public Internet website. This information appears only on the law enforcement database. MCL 28.728(4)(a)-(b).

More information on the Sex Offender Registry may be found on the Michigan State Police website at:

https://www.michigan.gov/documents/msp/SOR_Backgrounder_372795_7.pdf

SEX OFFENDER AND YOUTH DISPLAYING UNUSUAL SEXUAL BEHAVIOR ASSESSMENT TOOLS

Recommended Assessment tools have changed over the last few years. In place of the The Estimated Risk of Adolescent Sexual Offender Recidivism (ERASOR), the Juvenile Sex Offender Assessment Protocol (J-SOAP), and others, there are new recognized instruments.

Child and Adolescent Needs and Strengths (CANS)

The CANS is a multiple purpose information integration tool that is designed to be the output of an assessment process. The purpose of the CANS Comprehensive is to accurately represent the shared vision of the youth/youth serving system—children, youth, and families. As such, completion of the CANS Comprehensive is accomplished in order to allow for the effective communication of this shared vision for use at all levels of the system. Since its primary purpose is communication, the CANS Comprehensive is designed based on communication theory rather than the psychometric theories that have influenced most measurement development.

There are six key principles of a communimetric measure that apply to understanding the CANS Comprehensive.

SIX KEY PRINCIPLES OF THE CANS

1. Items were selected because they are each relevant to service/treatment planning. An item exists because it might lead you down a different pathway in terms of planning actions.
2. Each item uses a 4-level rating system. Those levels are designed to translate immediately into action levels. Different action levels exist for needs and strengths. For a description of these action levels please see below.
3. Rating should describe the youth, not the youth in services. If an intervention is present that is masking a need but must stay in place, this should be factored into the rating consideration and would result in a rating of an “actionable” need (i.e., ‘2’ or ‘3’).
4. Culture and development should be considered prior to establishing the action levels. Cultural sensitivity involves considering whether cultural factors are influencing the expression of needs and strengths. Ratings should be completed considering the youth’s developmental and/or chronological age depending on the item. In other words, anger control is not relevant for a very young youth but would be for an older youth or youth regardless of developmental age. Alternatively, school achievement should be considered within the framework of expectations based on the youth/youth’s developmental age.
5. The ratings are generally “agnostic as to etiology.” In other words, this is a descriptive tool; it is about the “what” not the “why.” Only one item, Adjustment to Trauma, has any cause-effect judgments.
6. A 30-day window is used for ratings in order to make sure assessments stay “fresh” and relevant to the youth/you.

LINK: [The Child and Adolescent Needs and Strengths \(CANS\) – Praed Foundation](#)

The Protective + Risk Observations For Eliminating Sexual Offense Recidivism (PROFESOR)

The PROFESOR is a structured checklist to assist professionals to identify and summarize protective and risk factors for adolescents and emerging adults (i.e., individuals aged 12 to 25) who have offended sexually. The PROFESOR is intended to assist with planning interventions that can help individuals to enhance their capacity for sexual and relationship health and, thus, eliminate sexual recidivism. The PROFESOR contains 20 bipolar factors (i.e., both protective and risk characteristics) that were chosen based on a review of the available literature and on clinical experience with adolescents and emerging adults who have offended sexually.

Wherever possible, multiple sources of information should be utilized to form coding judgments for each factor. This would include information such as interviews with the individual; interviews with parents/caregivers and/or other significant adult supports/informants; review of relevant collateral information; and information from relevant tests/measures. It is also critical to be sensitive to developmental differences and expectations when coding the PROFESOR. Although the PROFESOR is intended for a relatively restricted age range, spanning only 14 years, there are going to be differences on most factors that will require sensitivity to developmental norms. For example, what constitutes an emotionally intimate friendship at age 13 will likely look different from what constitutes an emotionally intimate friendship at age 22.

For some clients who are in controlled and supervised residential settings, current ratings on the PROFESOR may not be representative of the individual's functioning if they were to be in a less restrictive environment. Commentary regarding anticipated differences with a change in the level of supervision and/or external control may be warranted.

Protective and risk factors are summarized into one of five categories. The categories are intended to reflect the intensity of services that may be required. For example, those in Category 1 (Predominantly Protective) would likely require little or no intervention focused on building the capacity for sexual and relationship health, whereas those in Category 5 (Predominantly Risk) would likely require considerable intervention. Given that the PROFESOR contains only potentially dynamic protective and risk factors, it may also be useful as a measure of change over time or following intervention.

Other Tools Still In Use

SEXUAL ADJUSTMENT INVENTORY – JUVENILE

The Sexual Adjustment Inventory-Juvenile (SAI-Juvenile) is a juvenile (12-18 years old, male and female) sex offender assessment test. This is a state-of-the-art test that is comprehensive, informative, and statistically sound. It is a popular test.

See: <http://sai-juvenile.com/>

The Sexual Offense Risk Appraisal Guide: (SORAG)

The SORAG is an effective though relatively complicated 14-item scale. It requires a thorough and reliable social history, knowledge of the offender's Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis and a Hare's Psychopathy Checklist, Revised (PCL-R) score. If no PCL-R Score is available, users can substitute the Child and Adolescent Taxon Scale (CATS), but risk losing a small degree of accuracy. SORAG is best at predicating risk among violent sexual offenders:

<http://criminal-justice.iresearchnet.com/forensic-psychology/sex-offender-risk-appraisal-guide-sorag/>

The Sex Offender Needs Assessment Rating (SONAR)

SONAR represents the best attempt to date to apply actuarial methods to dynamic variables. However, although SONAR developers have published their development work, they have not yet published validation studies and SONAR cannot be considered fully scientific until this information is available: <http://criminal-justice.iresearchnet.com/forensic-psychology/sex-offender-needs-assessment-rating-sonar/>

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.

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.

Cognitive-behavioral therapy (CBT)

Cognitive-behavioral therapy helps youth discover and change the thought processes that lead to maladaptive behavior. CBT programs for offenders emphasize personal accountability, help offenders understand the thoughts and choices that led to their crimes, and teach alternative behaviors and thought processes. Programs are delivered in community settings, as individual or group therapy. There is strong evidence that CBT reduces recidivism among youth sex offenders²

Motivational Interviewing

Originally developed to address individuals with substance abuse issues, motivational interviewing is a collaborative, goal-oriented style of communication with particular attention to the language of change. It is designed to strengthen personal motivation for and commitment to a specific goal by eliciting and exploring the person's own reasons for change within an atmosphere of acceptance and compassion.

² Cognitive-Behavioral Therapy for Offenders, University of Wisconsin, 2020. <https://www.countyhealthrankings.org/take-action-to-improve-health/what-works-for-health/strategies/cognitive-behavioral-therapy-cbt-for-offenders>

Motivational interviewing is a person-centered counseling style for addressing the common problem of ambivalence about change that employs four processes:

1. Engaging – used to involve the client in talking about issues, concerns, and hopes, and to establish a trusting relationship with a counselor.
2. Focusing – used to narrow the conversation to habits or patterns that clients want to change.
3. Evoking – used to elicit client motivation for change by increasing clients' sense of the importance of change, their confidence about change, and their readiness to change.
4. Planning – used to develop the practical steps clients want to use to implement the changes they desire.

See: Motivational Interviewing Network of Trainers (MINT)

<https://motivationalinterviewing.org/>

The Good Lives Model (GLM)

GLM is a framework of offender rehabilitation which addresses the limitations of the traditional risk management approach. The GLM has been adopted as a grounding theoretical framework by several sex offender treatment programs internationally and is now being applied successfully in a case management setting for offenders.

The GLM is a strengths-based approach to offender rehabilitation, and is therefore premised on the idea that we need to build capabilities and strengths in people, in order to reduce their risk of reoffending. According to the GLM, people offend because they are attempting to secure some kind of valued outcome in their life. As such, offending is essentially the product of a desire for something that is inherently human and normal. Unfortunately, the desire or goal manifests itself in harmful and antisocial behaviors, due to a range of deficits and weaknesses within the offender and his/her environment. Essentially, these deficits prevent the offender from securing his desired ends in pro-social and sustainable ways, thus requiring that s/he resort to inappropriate and damaging means, that is, offending behavior.

Intervention should be viewed as an activity that should add to an individual's repertoire of personal functioning, rather than an activity that simply removes a problem, or is devoted to managing problems, as if a lifetime of restricting one's activity is the only way to avoid offending.

The GLM is a strengths-based rehabilitation framework that is responsive to offenders' particular interests, abilities, and aspirations. It also directs practitioners to explicitly construct intervention plans that help offenders acquire the capabilities to achieve things and outcomes that are personally meaningful to them. It assumes that all individuals have similar aspirations and needs and that one of the primary responsibilities of parents, teachers, and the broader community is to help each of us acquire the tools required to make our own way in the world. Criminal behavior results when individuals lack the internal and external resources necessary to satisfy their values using pro-social means. In other words, criminal behavior represents a maladaptive attempt to meet life values (Ward and Stewart, 2003). Rehabilitation endeavors should therefore equip offenders with the knowledge, skills, opportunities, and resources necessary to satisfy their life values in ways that don't harm others. Inherent in its focus on an

offender's life values, the GLM places a strong emphasis on offender agency. That is, offenders, like the rest of us, actively seek to satisfy their life values through whatever means available to them. The GLM's dual attention to an offender's internal values and life priorities and external factors such as resources and opportunities give it practical utility in desistance-oriented interventions.

Good Lives goal areas:

1. Having fun
2. Achieving
3. Being my own person
4. Having people in my life
5. Having a purpose and making a difference
6. Emotional health
7. Sexual Health
8. Physical Health

See: [The Good Lives Model of Offender Rehabilitation - Home](#)

The Michigan Judicial Institute recently held a webinar on "New Developments in Adolescent Sexual Behavior Assessment" featuring the PROFESOR and the Good Lives Model. See: [New Developments in Adolescent Sexual Behavior Assessment - EasyBlog \(mi.gov\)](#)

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 Health and 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 MDVSAPT also works collaboratively with other community members to promote safety for victims of domestic and sexual violence, and to hold perpetrators accountable. The MDVSAPT may be contacted at:

P.O. Box 30037
Lansing, MI 48909
Phone: 517-373-8144
[MDSVPTB](#)

Michigan Coalition to End Domestic and Sexual Violence (MCEDSV)

The MCEDSV is a private, nonprofit, statewide membership organization. MCEDSV's mission is to develop and promote efforts aimed at the elimination of all domestic and sexual violence in Michigan. MCEDSV program activities include providing leadership, technical assistance, training, and resources throughout Michigan to benefit domestic and sexual violence survivors. Contact the MCEDSV at:

3893 Okemos Road, Suite B2
Okemos, MI 48864
Phone: 517-347-7000
<https://mcedsv.org/>

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 can be contacted for a referral to sexual assault services in your area: [Services](#)

Questions for Review:

What does recent research say about juvenile sex offenders and recidivism?

What is the "Sex Offender Registry"?

Who is required to register and for how long?

Are juveniles required to register?

How may an offender be exempted from the registry?

What are some assessment instruments?

What are some current treatment modalities for juveniles?

What statewide and local services are available to victims of sexual assault?

Chapter 19: Gangs

INTRODUCTION

The purpose of this chapter is to provide general information on gang culture and 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.

Although the emphasis on gang activity has lessened in recent years, gangs continue to exist, and are active. In fact, in just the first few months of 2021, several news stories were published related to Michigan gang activity. For instance:

- Four “Bloods” gang members sentenced to prison after carving gang name into teen’s chest (Flint, MI: June 8, 2021).
- Feds make arrests targeting Vice Lords gang in Detroit, Chicago; 40 named in indictment (Detroit, MI: June 3, 2021).
- Police arrest former member of Flint’s most wanted (Flint, MI: May 10, 2021).
- Prosecutor: No charges for police in fatal Detroit shooting (Detroit, MI: April 7, 2021).
- US Marshals, Detroit Police search for alleged gang member wanted for murder of cousin (Detroit, MI: March 25, 2021).
- Shot spotter software leads Detroit police to bust of gun making operation by gang (Detroit, MI: March 17, 2021).
- ‘Just getting revenge on each other’ gang shootings contributed to the most violent year (Grand Rapids, MI: March 11, 2021).
- Man Up Peacekeepers organization encourage conflict resolution, communication in Saginaw (Saginaw, MI: March 11, 2021).
- Gang rivalry blamed for fatal shooting after 2019 Fourth of July fireworks (Grand Rapids, MI: February 1, 2021).

The Term “Gang”

Gangs are not new. They existed as early as the fourteenth and fifteenth-century in Europe and colonial America. Throughout the twentieth and well into the twenty-first century, social researchers devoted extensive time and resources to understanding youth gangs in America.

Public perception and fear is shaped largely by the mass media. It is clear that the media has done little to differentiate fact from fiction in their portrayal of youth gangs. Moreover, the media, over the past 30 years or so, has capitalized on incidents of gang activities by their coverage of youth gangs and contributed to the stereotypical images of how we think about gangs and gang members.¹

¹ *Youth Gangs in American Society*, Sheldon, et al. 2012

According to the National Youth Gang Center², researchers accept the following criteria for classifying groups as youth gangs:

- The group has three or more members, generally aged 12-24;
- Members share an identity, typically linked to a name, and often other symbols;
- Members view themselves as a gang, and they are recognized by others as a gang;
- The group has some permanence and a degree of organization;
- The group is involved in an elevated level of criminal activity.

Michigan Law

While Michigan law does not specifically utilize the term “gang”, MCL 750.157 states that “any person who conspires together with one or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner is guilty of the crime of conspiracy punishable” as a felony.

Reasons for Gang Involvement

James C. (Buddy) Howell, Ph.D., renowned gang expert, cites many potential reasons why individuals become involved in gangs, including their experience with:

Community:

Social disorganization, including poverty;
Availability of drugs and firearms;
Social and economic barriers;
Norms supporting gang behavior.

Family:

Family disorganization, including broken homes;
Parental drug/alcohol abuse;
Incest, family violence, and drug addiction;
Family members in a gang;
Lack of adult male/parental role models;
Parents with violent attitudes.

School:

Academic failure;
Negative labeling;
Trouble at school;
Low achievement test scores.

Peer Group:

Delinquent peers;
Few positive peers;
Street socialization;
Friends who use drugs or who are gang members;
Interaction with delinquent peers.

² <https://www.nationalgangcenter.gov/About/FAQ#q1>

Individual:

Prior delinquency;

Deviant attitudes;

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 from victimization.

The Impact of Gangs on Schools

According to the most recent *Indicators of School Crime and Safety: 2019* report, public schools reported gang activities decreases from 19 percent in 1999–2000 to 11 percent in 2017–18.³

Gang Involvement in Drugs and Violence

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.

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. Founded in Los Angeles, it is widely known for its rivalry with the Crips. The Bloods are identified by the red color worn by their members and by particular gang symbols, including distinctive hand signs. The Bloods consist of various subgroups 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.

Crips: The Crips are primarily, but not exclusively, an African American gang. Also founded in Los Angeles, (1971). 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 backward – all to "diss" the Bloods.

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".

³ [Indicators of School Crime and Safety: 2019 \(ed.gov\)](#)

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 multigang 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;
- cane;
- five-point star;
- Saracen symbols of the Legendary Arabian Anti-Crusaders King Neal;
- five-points of the golden star;
- crescent moon (Teutonic);
- 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," "Proud Boys," and "Oath Keepers". In March, 2021, FBI Director Christopher Wray testified before the U.S. Senate Judiciary Committee and stated ". . . racially motivated violent extremism specifically of the sort that advocates for the superiority of the white race is a persistent evolving threat . . . It's the biggest chunk of our racially motivated violent extremism cases for sure and racially motivated violent extremism is the biggest chunk of our domestic terrorism portfolio."

Transnational Gangs: Within the last two decades, a number of violent upstart gangs have emerged, including the Los Angeles-based Mara Salvatrucha (MS-13). The MS-13 gang has been described as the "world's most dangerous gang." With cliques in 42 states, including Michigan. MS-13 is truly "international" and on the verge of becoming the first gang to be categorized as an "organized crime" entity. 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.

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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. 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 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, is intended to represent the presence of a gang. They convey a threat of gang violence in the neighborhood. In New York City, subway graffitists 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 graffitist, 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.

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

See the National Gang Center Database: <https://www.nationalgangcenter.gov/>

Questions for Review:

What is a gang?

Does Michigan law address gang activity?

What are some reasons youth become involved in gang activity?

Has gang activity in schools increased, decreased, or stayed the same over the past two decades?

What are some well-known gangs?

How is graffiti related to gang activity?

Where can you get more information?

Chapter 20: Mental Health Issues

INTRODUCTION

This chapter is intended to familiarize you with some common mental health disorders. It is not meant to be all-inclusive. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) is the principal authority for psychiatric diagnoses and treatment recommendations.

Mental Health

Mental Health refers to our emotional state of well-being. It refers to healthy functioning and happiness. It may otherwise be known as mental wellness.

Mental Illness

Mental Illness refers to a diagnosed clinical condition that leads to a psychological or behavioral pattern that causes distress and is not normal functioning. Symptoms range from mild to severe. To be classified as a mental illness, symptoms must cause a significant distress to one's life and reduce one's ability to function as they would like.

Estimates indicate that approximately 50-75 percent of the two million youth entering the juvenile justice system meet criteria for a mental health disorder. This emphasizes the need for different levels of mental health care and varying treatment options. Some youth experience their disorder temporarily and only need emergency services. Others, approximately 10 percent, represent a group of youth with chronic mental health needs who will likely need clinical care well into adulthood. Some youth function well despite their symptoms, while others present limited functionality.¹

There are many mental health disorders that begin in childhood, but cannot be diagnosed until adulthood. For purposes of this chapter, we focus on youth-related diagnoses. Additional links to websites have been added at the end of this chapter as resources.

Mental Health Disorders

Mental health disorders can typically be classified into 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;
- self-mutilation.

MOOD DISORDERS

¹ Scott, Dennis, et al *Juvenile Justice Systems of Care*, *Health and Justice Journal*, December 7, 2019
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6717998/>

Depressive Disorders

Major Depressive Disorder: Is typically characterized by one or more episodes lasting a period of at least two weeks and a depressed mood or the loss of interest or pleasure in nearly all activities. In children, the mood may be irritable rather than sad.

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.

Approximately 10-15 percent of adolescents with recurrent major depressive episodes will go on to develop Bipolar I Disorder.

Minor Depressive Disorder: Is similar to a major depressive disorder in duration, but involves fewer symptoms, and less impairment. Again, progressively worsening episodes must exist.

Dysthymic (depressed) Disorder: Is 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.

Manic Episode

A distinct period of abnormally and persistently elevated, expansive, or irritable mood lasting at least one week.

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. Completed suicide occurs in 10-15 percent of these individuals. 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.

Bipolar II Disorder

Characterized by one or more major depressive episodes, accompanied by at least one hypomanic (a mild form of mania, marked by elation and hyperactivity) episode. The 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 (low intensity) Episode

Same list of characteristic symptoms of manic episode, but disturbance is not sufficiently severe to cause marked impairment in functioning.

ATTENTION-DEFICIT AND DISRUPTIVE BEHAVIOR PERSONALITY DISORDERS

Attention-Deficit/Hyperactivity Disorder (ADHD)

- characterized by prominent and persistent patterns of inattention, hyperactivity, and impulsivity;
- impairment in at least two areas of functioning must occur;
- often do not follow through on requests; work is messy, and incomplete. There must be clear evidence of interference with developmentally appropriate social, academic, or occupational functioning.

Conduct Disorder

A repetitive and persistent pattern of behavior in which 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 thievery.

At least three behaviors listed above must have been present over the past 12 months. Behaviors are often present in the home, school, and/or the community. Minimization of behaviors is prevalent. Children often initiate aggressive behaviors.

Oppositional Defiant Disorder

A recurrent pattern of negative, defiant, disobedient, and hostile behavior toward authority figures that persists for more than six months.

Typically includes 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 the home and may not be evident at school or within the community.

IMPULSE-CONTROL DISORDERS

Intermittent Explosive Disorder

Characterized by the occurrence of aggressiveness that result in serious, assaultive acts, or destruction of property. Aggressive behavior is grossly out of proportion to any provocation or stressor.

Reactive Attachment Disorder

Markedly disturbed and developmentally inappropriate social relatedness in most contexts that begins before age five years. Associated with grossly pathological parental care that does not take into account the child's needs for comfort, stimulation, and affection.

Two types of Reactive Attachment Disorders: 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, hypervigilant, 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 re-experiencing an extremely traumatic event accompanied by symptoms of increased arousal and by avoidance of stimuli associated with the trauma.

Panic Attacks

Periods of intense fear or discomfort with four or more symptoms developing abruptly and peaking within 10 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 Disorder/Stress Response Syndrome

Adjustment disorder (now known as Stress Response Syndrome) is a short-term condition that occurs when a person has great difficulty coping with, or adjusting to, a particular source of stress, such as a major life change, loss, or event.

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.

Emotionally Impaired/Emotional Disturbance

The Individuals with Disabilities Education Act (IDEA) uses the term “emotional disturbance” and defines it as “a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance:

- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (C) Inappropriate types of behavior or feelings under normal circumstances.
- (D) A general pervasive mood of unhappiness or depression.
- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.”

Autism Spectrum Disorder (ASD)

Autism spectrum disorder is characterized by difficulties in social interaction, verbal and nonverbal communication, and repetitive behaviors.

ASD can be associated with:

- intellectual disability;
- difficulties in motor coordination;
- attention and physical health issues, such as sleep, and gastrointestinal disturbances.

Some persons with ASD excel in visual skills, music, math, and art.

ASD appears to have its roots in very early brain development. However, the most obvious signs of ASD tend to emerge between two and three years of age.

ASD statistics from the U.S. Centers for Disease Control and Prevention (CDC) identify that approximately one in 54 children as on the spectrum.²

² Center for Disease Control, *Surveillance Summaries* / March 27, 2020 / 69(4);1–12
https://www.cdc.gov/mmwr/volumes/69/ss/ss6904a1.htm?s_cid=ss6904a1_w

Asperger Syndrome

Asperger Syndrome is an ASD considered to be on the “high functioning” end of the spectrum. Affected children and adults have difficulty with social interactions and exhibit a restricted range of interests and/or repetitive behaviors. Motor development may be delayed, leading to clumsiness, or uncoordinated motor movements. Compared with those affected by other forms of ASD, however, those with Asperger Syndrome do not have significant delays or difficulties in language or cognitive development. Some even demonstrate precocious vocabulary – often in a highly specialized field of interest.

The following behaviors are often associated with Asperger Syndrome. However, they are seldom all present in any one individual and vary widely in degree:

- limited or inappropriate social interactions
- "robotic" or repetitive speech
- challenges with nonverbal communication (gestures, facial expression, etc.) coupled with average to above average verbal skills
- tendency to discuss “self” rather than “others”
- inability to understand social/emotional issues or nonliteral cues
- lack of eye contact or reciprocal conversation
- obsession with specific, often unusual, topics
- one-sided conversations
- awkward movements and/or mannerisms

Asperger Syndrome often remains undiagnosed until a child or adult begins to have serious difficulties in school, the workplace, or involvement in the justice system. Many adults with Asperger Syndrome receive their diagnosis when seeking help for related issues such as anxiety or depression.

Intellectual Disability

Is characterized by significantly below average intellectual functioning with an onset before 18 years of age, and accompanied by significant limitations in at 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.

Fetal Alcohol Spectrum Disorder (FASD)

Is a condition in a child that results from alcohol exposure during the mother's pregnancy. FASD causes brain damage and growth problems. The problems vary from child to child, but defects caused by the disorder are irreversible. Youth may or may not be diagnosed as having FASD.

Physical defects may include:

- distinctive facial features, including wide-set eyes, an exceptionally thin upper lip, a short, upturned nose, and a smooth skin surface between the nose and upper lip;
- slow physical growth before and after birth;
- vision difficulties or hearing problems.

Some characteristics that contribute to FASD youth becoming involved in delinquent behavior include cognitive and social functioning:

Cognitive

- intellectual disability, learning disorders, and delayed development;
- poor memory;
- trouble with attention and with processing information;
- difficulty with reasoning and problem-solving;
- difficulty identifying consequences of choices;
- poor judgment skills;
- jitteriness or hyperactivity;
- rapidly changing moods.

Social Functioning

- difficulty in school;
- trouble getting along with others;
- poor social skills;
- trouble adapting to change or switching from one task to another;
- problems with behavior and impulse-control;
- poor concept of time;
- problems staying on task;
- difficulty planning or working toward a goal.

Substance Use Disorders (SUD)

Substance use disorders are patterns of symptoms resulting from the use of a substance that an individual continues to take, despite experiencing problems as a result.

Substance use disorders span a wide variety of problems arising from substance use, and cover 11 different criteria:

1. Taking the substance in larger amounts or for longer than intended.
2. Wanting to cut down or stop using the substance but not managing to.
3. Spending a lot of time getting, using, or recovering from use of the substance.
4. Cravings and urges to use the substance.
5. Not managing to do home or schoolwork because of substance use.
6. Continuing to use, even when it causes problems in relationships.
7. Giving up important social, occupational, or recreational activities because of substance use.
8. Using substances again and again, even when it puts them in danger.
9. Continuing to use, even when one knows they have a physical or psychological problem that could have been caused or made worse by the substance.
10. Needing more of the substance to get the effect they want (tolerance).
11. Development of withdrawal symptoms, which can be relieved by taking more of the substance.

Co-Occurring Disorder

Co-occurring disorder refers to the condition in which an individual has a coexisting mental illness and substance use disorder. Common examples include the combination of depression with cocaine addiction, alcohol addiction with panic disorder, marijuana addiction, and adjustment disorder.

OTHER DISORDERS

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, which 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.

INTERVENTIONS

Working with youth who have mental health issues can be challenging. Although you are not a therapist, these strategies may assist you when working with youth:

- 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 to 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;
- clarify jargon, abbreviations, or other words they may not understand;
- make appropriate referrals.

EVIDENCE-BASED PRACTICE

Evidence-based practice (EBP) is the objective, balanced, and responsible use of current research and the best available data to guide decisions, so that outcomes are improved. Evidence-based practice focuses on approaches demonstrated to be effective through empirical research rather than through anecdote or professional experience alone.

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 serve as a role model; 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-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 Programming³

The following is a synopsis of NICs value statement regarding female-responsive services for females are:

- inclusive of race, ethnicity, class, sexual orientation, and individual life experience simultaneously;
- relational and seek to support the development of healthy relationships;
- 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;
- designed to restore relationships;
- paying attention to societal influences through teaching them critical thought;
- multileveled reflecting their place in the community, nationally, and on a global basis;
- holistic and sustainable over time.

³ US Department of Justice, National Institute of Corrections <https://nicic.gov/tags/gender-responsive>

Female-Specific 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.

Additional Interventions

Information and Referral – Specific needs-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.

OTHER RESOURCES

Education/Schools

Local schools have a wealth of resources that assist students with mental health issues.

Local Intermediate School District (ISD)--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 personpower, educational staff, etc.

Juvenile Mental Health Courts

As previously mentioned, a family division of circuit court may adopt or institute a juvenile mental health court. MCL 600.1091. A mental health court is a court-supervised treatment program for individuals who are diagnosed by a mental health professional with having a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability. MCL 600.1090(e).

Even if your court does not have a mental health court, you may have access to treatment providers. Consult with your supervisor and/or court administrator regarding treatment programs you may be able to access in your area.

Agencies

Several nonprofit agencies offer mental health services within local communities. It is important to become familiar with resources in your area.

WEB RESOURCES

Civic Research Institute, Inc., 4478 Route 27, P.O. Box 585, Kingston, N.J. 08528
https://civicresearchinstitute.com/cat_juvenile.html

American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (DSM-V): <https://www.psychiatry.org/psychiatrists/practice/dsm>

Autism Speaks: <https://www.autismspeaks.org/>

The National Center on Education, Disability, and Juvenile Justice, University of Maryland: <http://www.edjj.org/>

National Institute of Mental Health: <https://www.nimh.nih.gov/index.shtml>

Substance Abuse and Mental Health Services Administration: <https://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 is a substance use disorder?

What is a co-occurring disorder?

What are other types of disorders?

What are some strategies you may use to help youth with mental health issues?

What are Evidence-Based Programs (EBP)?

What are characteristics of female-specific programming?

Where can you find resources on mental health disorders?