

JUVENILE CASE

CHECKLIST

January 1, 2011

INITIAL CLIENT CONTACT

- **Counsel shall ensure that children do not waive counsel**
- Meet with youth “at the earliest possible stage of a youth court proceeding”
- Identify yourself by name and affiliation
- Be sure to clarify that you are not part of the detention staff
- Inform youth that communications between youth and attorney are confidential
 - And that communications between youth and all others – including parents – are not
- Inform youth of right to remain silent – and what that means
- Remind youth that you are not attorney for the youth’s parents or guardians
- Explain the charges and potential dispositions
- Explain the youth court process and identify all parties
- Obtain signed releases from youth and parents/guardians
- Find out if youth made any statements regarding offense and arrest
- Identify all relevant witnesses
- Obtain name of youth probation officer, if known
- Secure assistance from experts if communication impairments arise
 - ❖ Language, literacy, chemicals, mental health
- Prepare youth for interviews with probation office
 - ❖ Accompany youth to such interview

PARENTS / GUARDIANS

- Meet with parents / guardians (P/G) as soon as possible
- Explain to P/G that you represent youth, not P/G
- Advise P/G of possible conflict between their interests and those of the youth
- Explain that in event of conflict you are required to serve interest of youth exclusively

HANDLING THE CASE

- **Explore the possibility of securing disposition via informal adjustment (§41-5-130, MCA)**
- Was client properly advised of rights by law enforcement / youth probation / court?
- Obtain and review all relevant discovery materials prior to probable cause hearing
- Identify possible pretrial motions and preserve appellate record for said issues
- Laws relating to youth court records
- Detention Issues / Information:
 - Timely hearing? (within 24 hours of time youth was taken into custody)
 - Probable cause
 - Argue for least restrictive placement
 - Did youth probation and/or the court consider alternatives to detention
 - Bail
 - Did youth probation conduct a risk assessment
 - ❖ Have they provided a copy to defense counsel
 - Use detention / probable cause hearing as discovery tool
 - Be alert for hearsay, Crawford issues
 - Make demand on record for full and continuing discovery from prosecution
- If the court orders detention, make appropriate arguments for bail

- Transfer Hearings (§41-5-208) / Extended Jurisdiction (§41-5-1602) and Competency Issues
 - **Read these statutes**
 - Be aware of requisite statutory findings court must make to transfer or extend
 - Get an updated mental health evaluation from an expert proficient in adolescent psychology
 - Be familiar with, and advocate for, client services (AWARE, Youth Dynamics, etc.)
 - Distinguish DOC programs from programs available in community and or for youths
 - ❖ e.g., Pine Hills, group homes, wrap around services, inpatient treatment, Normative Services, etc.
 - Investigate adolescent brain development issues
 - Investigate chemical dependency issues
 - Identify collateral support resources (teachers, family friends, extracurricular activities)
 - Adult record issue as opposed to civil disposition
 - Call witnesses who can support transferring the case back to youth court

- At all stages of youth court proceedings:
 - Investigate the case
 - Obtain discovery, police reports and witness statements
 - Be aware of time lines
 - Make sure the youth is fully informed and understands what is going on
 - Be satisfied that answers of “true” or pleas of “guilty” are voluntarily and knowingly entered and that there is a factual basis for the answer or plea
 - Be aware of whether a true answer or guilty plea will compromise the youth’s school status or the family’s public assistance or immigration status
 - Be aware of the prosecutor’s dispositional recommendation
 - Secure expert assistance if needed
 - Be aware of any relevant registration requirements stemming from the proceeding

FOR CASES RESULTING IN ADMISSION

- Advocate for dismissal of as many charges as possible
- Advocate for reduction of charges
- Make sure disposition agreement is reduced to writing
- Make request for consent decree
- Understand and explain options if youth is to be placed out of home
- Advise youth of role of Youth Probation in social summary & during supervision

FOR CASES RESULTING IN A JUDGE/JURY TRIAL

- Refer to OPD Criminal Case Checklist

DISPOSITION

- Ensure youth is informed of possible and likely outcomes
- Prepare and present Witnesses / Letters / Placement options
- Ensure court has all other relevant information (see list under transfers/competency above)
- Inform client of the right to speak at disposition hearing, including effects of admissions on appeal, retrial, etc.
- Inform client of right of appeal
- Inform client of option to move for a new trial, if relevant