

REPRESENTING CHILDREN #HIGHER STANDARDS



IT IS NOT “JUST” A JUVENILE CASE
LET'S CHANGE THE CONVERSATION

AND START THE MOVEMENT!



► Starting a Movement

HOW ARE WE TREATING OUR CHILDREN?



“ YET CLOSED DOORS EFFECTIVELY SHIELD LAWYERS AND JUDGES FROM SCRUTINY THEY MIGHT OTHERWISE FACE FROM THE PUBLIC AND THE PRESS. WITH MORE SCRUTINY, ATTORNEYS MIGHT TAKE THEIR ETHICAL DUTIES MORE SERIOUSLY AND JUDGES MIGHT BEHAVE MORE PROFESSIONALLY AND APPROPRIATELY”

- “*Losing Hold of the Guiding Hand: Ineffective Assistance of Counsel in Juvenile Delinquency Representation*”

WHAT ARE SOME OF YOUR CONCERNS/FEARS WITH REPRESENTING KIDS?

- ▶ Lack of first hand experience
- ▶ Hard to talk with kids
- ▶ Hard to work with parents
- ▶ Lots of collateral issues to deal with: school, mental health, collateral consequences, registration
- ▶ The decision has *already been made* before I walk in the door
- ▶ It is lonely! Not many people do this work!
- ▶ The judges only care about what the DJOs have to say
- ▶ Trials are slow guilty pleas- what is the point

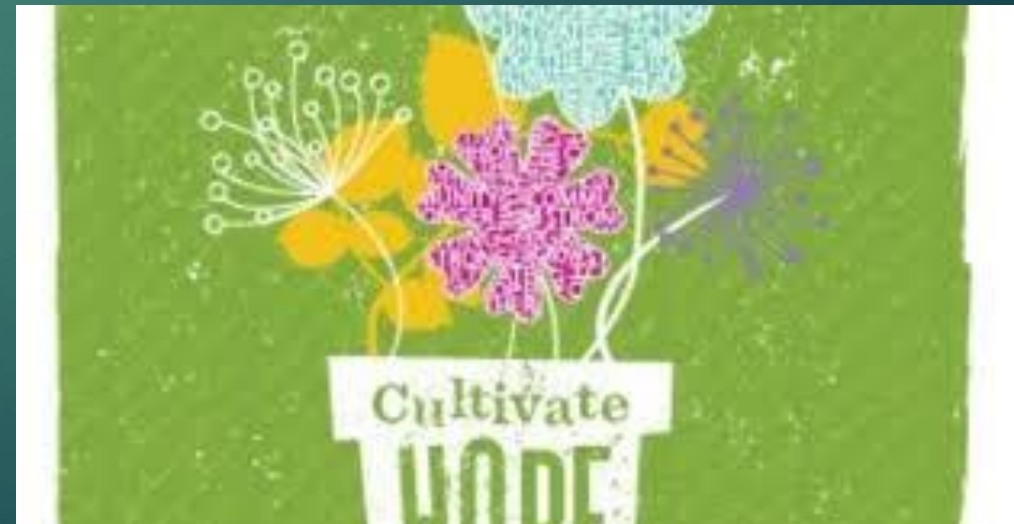


SO, HERE WE GO!

- ▶ Going to give you hope- we can be a community
- ▶ Give you a toolbox of resources to go to
- ▶ Remind you that I can be a resource and am happy to help!
- ▶ Give some real-life examples and talk through 3 scenarios
- ▶ Give us all hope that we can challenge the status quo, and hold ourselves to higher standards



**DISRUPT THE
STATUS QUO**



HERE IS WHAT YOU WANT TO GET YOUR HANDS ON

MISSOURI JUVENILE OFFICER PERFORMANCE STANDARDS

2017

ON



Topical Issues Search

Below is NJDC's dynamic topical search engine. Click on any topic and you'll get access to what NJDC has on that subject. Narrow your search by clicking more topics or by selecting specific regions or states.

Topics

- | | |
|--|---|
| <input type="checkbox"/> Appeals | <input type="checkbox"/> Appointment of Counsel / Access to Counsel |
| <input type="checkbox"/> Child & Adolescent Development | <input type="checkbox"/> Collateral Consequences |
| <input type="checkbox"/> Communication / Language Issues | <input type="checkbox"/> Competence |
| <input type="checkbox"/> Conditions of Confinement (PREA, Isolation, etc.) | <input type="checkbox"/> Detention |
| <input type="checkbox"/> Disposition | <input type="checkbox"/> Diversion |
| <input type="checkbox"/> Educational Issues | <input type="checkbox"/> Ethics / Professional Responsibility |
| <input type="checkbox"/> Family & Third-Party Engagement | <input type="checkbox"/> Immigration |
| <input type="checkbox"/> Indigence | <input type="checkbox"/> Interrogation |
| <input type="checkbox"/> Juvenile Sex Offense Issues | <input type="checkbox"/> Legislation |
| <input type="checkbox"/> Mental Health Issues | <input type="checkbox"/> Pleas |
| <input type="checkbox"/> Post-Disposition | <input type="checkbox"/> Racial & Ethnic Disparity (RED) |
| <input type="checkbox"/> Racial Bias | <input type="checkbox"/> Role of Counsel / Scope of Representation |
| <input type="checkbox"/> Search & Seizure | <input type="checkbox"/> Sexual Orientation & Gender |
| <input type="checkbox"/> Shackling | <input type="checkbox"/> Social Work |
| <input type="checkbox"/> Specialization in Juvenile Defense | <input type="checkbox"/> State Assessments |
| <input type="checkbox"/> Status Offenses | <input type="checkbox"/> Supreme Court |
| <input type="checkbox"/> Transfer | <input type="checkbox"/> Tribal / Native American Youth |
| <input type="checkbox"/> Violation of Probation | <input type="checkbox"/> Waiver of Counsel |
| <input type="checkbox"/> Youth in Adult Court (JLWOP, Post-transfer, etc.) | |



Missouri Juvenile & Family Division Annual Report

2016

NATIONAL JUVENILE DEFENSE STANDARDS



Models in Change



Got Gault?

A 1967 Supreme Court Case - *In re Gault* - said young people have a right to a lawyer. So why do so many youth go to court without one?

#SeekingYouthJustice

THE ANNIE E. CASEY FOUNDATION

OUR WORK BLOG ABOUT US CONTACT US KIDS COUNT DATA CENTER

Building a Brighter Future for Children,
Families and Communities

THE NATIONAL CENTER FOR
Victims of Crime

SMART, SAFE, AND FAIR:

STRATEGIES TO PREVENT
YOUTH VIOLENCE, HEAL VICTIMS
OF CRIME, AND REDUCE RACIAL INEQUALITY

Missouri's

Juvenile Offender Risk & Needs Assessment and Classification System

Also, if you need additional
resources/someone to bounce
ideas off of....

MY CELL: 314-616-3555
CALL ANYTIME!!!

BRIEF PRIMER

Police bring
child to juvenile
court



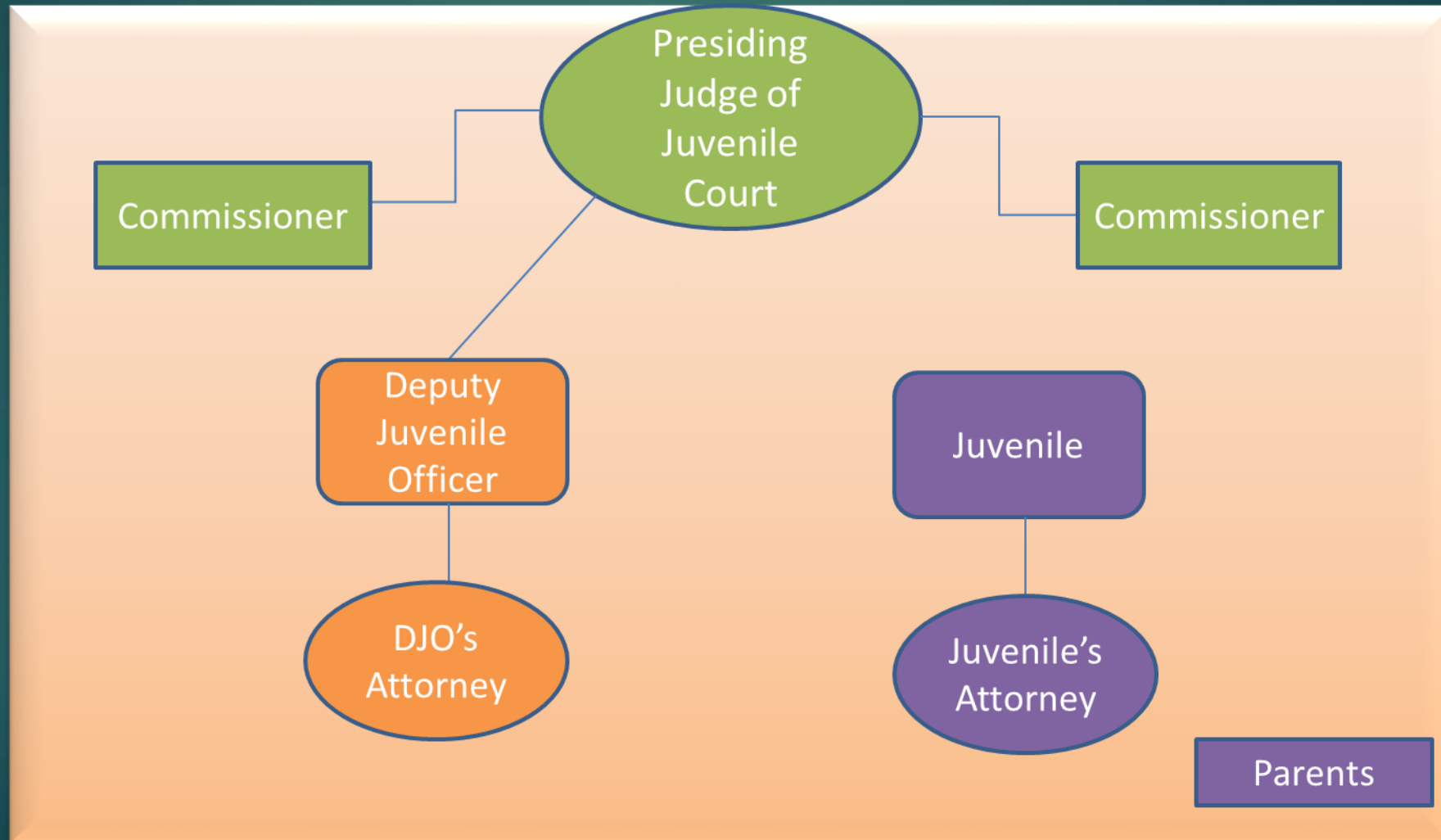
Court either detains or
releases child

JDTA is filled out by
intake DJO,
recommendation
made regarding
release or detention

Detention
hearing must
be held within 3
days, OR status
conference
held

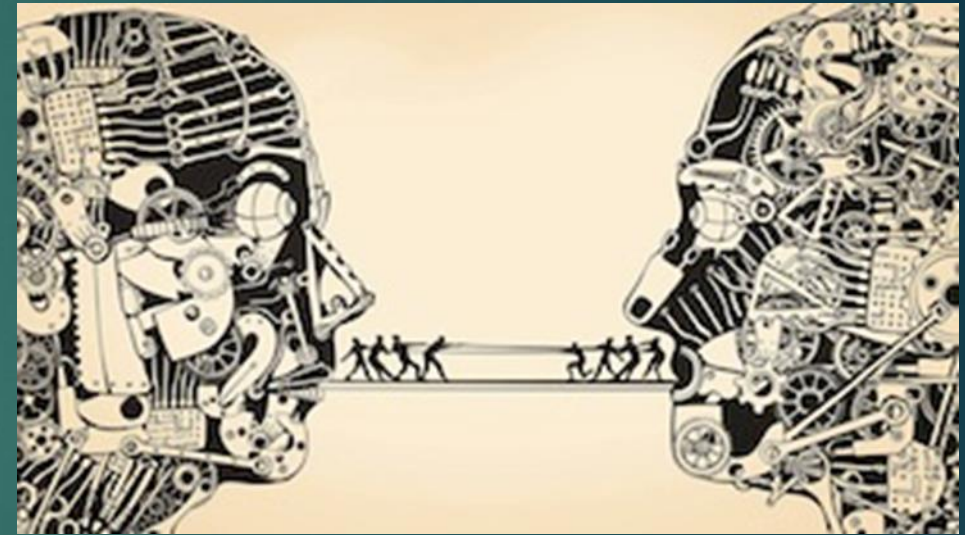


Key Participants in the Juvenile Justice System



DETAINED CHILDREN

- Juveniles are “detained” not arrested
- After being taken into custody, parent must be notified. Supreme Court rule 127.02
- Any juvenile taken into custody SHALL be released to parent unless detention authorized
- A juvenile officer may authorize detention up to 24 hours unless court has ordered detention Rule 127.06
- Detention hearing shall be within three business days (except for good cause) Rule 127.07



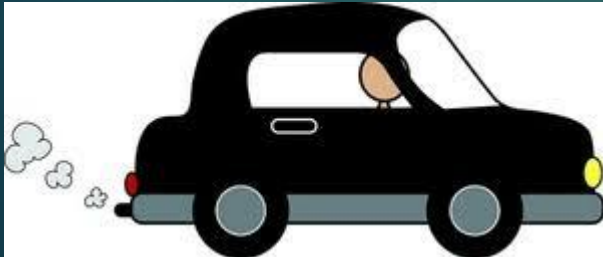
SCENARIO #1

Tyler is picked on a tampering first degree

He is initially detained by the court

You have entered your appearance and are going to represent Tyler at the detention hearing

- 1) WHAT DOCUMENTS DO YOU NEED TO GET READY?
- 2) WHO DO YOU NEED TO TALK TO TO GET READY?
- 3) WHAT RULES, STATUTES OR STANDARDS DO YOU NEED TO LOOK AT TO GET READY?
- 4) WHAT ARGUMENTS WILL YOU MAKE AT THE DETENTION HEARING?



DOCUMENTS YOU NEED FOR THE DETENTION HEARING

- ▶ Petition (charging document)
- ▶ Probable Cause Statement
- ▶ JIS (Juvenile information Summary)
 - ▶ JDTA Tool



PETITION

STATE OF MISSOURI
FAMILY COURT - JUVENILE DIVISION

In the Interest of:

[REDACTED]

Male/dob: [REDACTED]
1822-JR [REDACTED]

)
)
)
)
)
)

Cause No. 1822-JU [REDACTED]

Det Hrg: [REDACTED]

PETITION

COMES NOW [REDACTED], Juvenile Officer, Twenty-Second Judicial Circuit of Missouri, by and through counsel, and states to the Court:

1. This petition is filed in the interest of [REDACTED], a juvenile born [REDACTED], who resides at [REDACTED].

2. The name of the Juvenile's father is unknown, whose address is unknown.

3. The name of the Juvenile's mother is [REDACTED], whose address is [REDACTED].

4. The name of the Juvenile's legal guardian is [REDACTED], whose address is [REDACTED].

5. At the time of the filing of this petition, the Juvenile is in the physical custody of the Superintendent of Detention, whose residence is 3847 Enright, St. Louis, MO 63108.

6. The Juvenile comes within provisions of Section 211.031.1(3), RSMo, in this, to wit:

(a) The Juvenile, in violation of Section 569.080, RSMo, committed the offense of TAMPERING FIRST DEGREE, a Class D felony, in that on or about [REDACTED], in the City of St. Louis, State of Missouri, the Juvenile, without the consent of the owner, knowingly unlawfully operated an automobile, to-wit: a [REDACTED], the property of [REDACTED]; and

PROBABLE CAUSE AFFIDAVIT

TWENTY-SECOND JUDICIAL CIRCUIT OF MISSOURI JUVENILE DIVISION – CIRCUIT COURT

PROBABLE CAUSE AFFIDAVIT

I, / PO / / 305 do hereby swear
(Name) (Rank) (DSN) (Assignment)

or affirm under penalty of perjury that the facts contained herein are true and correct. That on

 at 1900 at / 5
(Date) (Time) (Location) (Dist)

 was taken into custody
(Juvenile's Name)

for the alleged violation of the Juvenile Code reported to me or committed in my presence which gave me probable cause to believe that a delinquency offense was committed and the said juvenile committed it, to wit:

Tampering 1st and Felony Fleeing

JUVENILE INFORMATION SUMMARY (JIS)



- ▶ What you need to know:
 - ▶ It contains a wealth of information: current school, if there is an IEP, height, weight, SSN, parent's name and number
 - ▶ Contains number of referrals child has had in the jurisdiction
 - ▶ Contains services that have been offered/provided

BEWARE: a referral does not mean that it is a delinquency referral! It can be a Children's division referral or a status offense referral. Those DO NOT COUNT in the JDTA Scoring!!!

Report: [REDACTED]

MISSOURI JUDICIARY
22ND JUDICIAL CIRCUIT
JUVENILE SUMMARY

Date: [REDACTED]
Time: [REDACTED]
Page: [REDACTED]

JUVENILE NAME: [REDACTED]

ACTIVE PICKUP ORDER: Y Type: Ord Take Juv Into Jud Custody

ALIAS:

SEX OFFENDER: N

ADDRESS: [REDACTED]

WARD OF COURT: N

COUNTY: City of St Louis

PHOTO ON FILE: Y

PHONE: [REDACTED]

DATE CERTIFIED:

SSN: [REDACTED]

FINGERPRINT NO:

DCN: [REDACTED]

RACE: [REDACTED]

DOB: [REDACTED]

SEX: [REDACTED]

CURRENT AGE: 15

HAIR: [REDACTED]

EYES: Brown

WGT: [REDACTED]

HGT: [REDACTED]

LEGAL DISTRICT: St. Louis City

SCHOOL: [REDACTED]

GRADE: [REDACTED]

CURRENT STATUS: Enrolled

IEP: N

MOST RECENT ACTION:

JUVENILE STATUS: ACTIVE

COUNTY LOCATION: Juv Office City of St Louis

JO/DJO: (KINAJ0789) [REDACTED]

JO/DJO PHONE: [REDACTED]

GAL/Attorney: [REDACTED]

GAL/ATTY PHONE:

REFERRAL TOTAL: 8

ADMIN/COURTESY REFS:

MAS/SOCFIL LOCATION: [REDACTED]

NEXT COURT ACTION: [REDACTED]

EVENT: Adjudication Hearing

CASE ID: [REDACTED]

JUD/COMM: [REDACTED]

TIME: 09:00:00

EVENT LOCATION AND ROOM: Family Court Juvenile Division COURTROOM 2

COURT FILE LOCATION: 05-Feb-2018 E-CASE - Entire Case File Electronic

NEXT COURT ACTION: 15-Mar-2018

EVENT: Disposition Hearing

Good
background
info to have!

DJO info

Referral
number
total

DJO contact
info

JIS CONTINUED REFERRAL FROM CHILDREN'S DIVISION

This tells you
who the
referral came
from

INFORMAL CAS				
<u>CASE ID</u>	<u>RISK</u>	<u>NEEDS</u>	<u>COUNTY LOCATION</u>	<u>JO/DJO</u>
[REDACTED]			Juv Office City of St Louis	
<u>SOURCE</u>	<u>ARREST AGENCY</u>		<u>COMPLAINT NUMBER</u>	
ST LOUIS CITY CHILDREN'S DIVISION				
<u>FILE LOCATION</u>	<u>DATE</u>	<u>CASE STATUS</u>	<u>DATE</u>	
RECORDS ROOM - JUVENILE	[REDACTED]	Referral Closed PET/MM Filed	[REDACTED]	
<u>ALLEGATIONS OCCURRED</u>	<u>DESCRIPTION</u>	<u>CHARGE LEVEL</u>	<u>ALLEGATION DISPOSITION</u>	<u>DISPOSITION DATE</u>
[REDACTED]	Neglect - Other	JU	Alleg Transferred to Pet-Juv	[REDACTED]

This tells you
it is a CD
case

JIS CONTINUED

STATUS REFERRAL/INFORMAL ADJUSTMENT

This is the original charge, a status offense

These are the services provided, along with the agency who provided the services

<u>CASE ID</u> [REDACTED]	<u>FILED</u> [REDACTED]	<u>RISK</u> 9	<u>NEEDS</u> 11	<u>COUNTY LOCATION</u> Juv Office City of St Louis	<u>JO/DJO</u>
<u>SOURCE</u> [REDACTED]		<u>ARREST AGENCY</u>		<u>COMPLAINT NUMBER</u>	
<u>FILE LOCATION</u> RECORDS ROOM - JUVENILE	<u>DATE</u> [REDACTED]	<u>CASE STATUS</u> Terminate Informal Adjustment		<u>DATE</u>	
<u>ALLEGATIONS OCCURRED</u> [REDACTED]	<u>DESCRIPTION</u> Truancy	<u>CHARGE LEVEL</u> JU	<u>ALLEGATION DISPOSITION</u> Allegation True-Juv		<u>DISPOSITION DATE</u> [REDACTED]
<u>SERVICE/SANCTION</u>	<u>AGENCY</u>	<u>LEVEL</u>	<u>ORDERED DATE</u>	<u>START DATE</u>	<u>END DATE</u>
[REDACTED]	ST LOUIS CITY JUVENILE OFFICE	INFORMAL	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	ST LOUIS CITY JUVENILE OFFICE	NO CLASSIFICATION	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	TRUANCY INITIATIVE UNIT	NO CLASSIFICATION	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	ST LOUIS CITY JUVENILE OFFICE	NO CLASSIFICATION	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	PROFESSIONAL MENTAL HEALTH SERVICES	SUCCESSFULLY COMPLETED	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	ST LOUIS CITY JUVENILE OFFICE	NO CLASSIFICATION	[REDACTED]	[REDACTED]	[REDACTED]
			<u>OUTCOME</u>		
			Unsuccessfully Completed		
			Incomplete		
			SUCCESSFULLY COMPLETED		
			Unsuccessfully Completed		
			Case Closed Service Ongoing		
			Incomplete		

Information Displayed Per User Security Authorization
Confidential - For Court Use Only

This tells you that services were terminated after informal adjustment attempts

This tells you the outcome of the services that were provided

JIS CONTINUED REJECTED REFERRAL

<u>CASE ID</u> [REDACTED]	<u>FILED</u> [REDACTED]	<u>RISK</u>	<u>NEEDS</u>	<u>COUNTY LOCATION</u> Juv Office City of St Louis	<u>JO/DJO</u> [REDACTED]
<u>SOURCE</u> CLAYTON PD	<u>ARREST AGENCY</u> (MO0951400) CLAYTON PD			<u>COMPLAINT NUMBER</u> [REDACTED]	
<u>FILE LOCATION</u> RECORDS ROOM - JUVENILE	<u>DATE</u> [REDACTED]	<u>CASE STATUS</u> Juv Referral Rjcted Insuf Evid		<u>DATE</u> [REDACTED]	
<u>ALLEGATIONS OCCURRED</u> [REDACTED]	<u>DESCRIPTION</u> Peace Disturbance, First Offense	<u>CHARGE LEVEL</u> MB		<u>ALLEGATION DISPOSITION</u> Allegation Rejected-Juv	
<u>DISPOSITION DATE</u> [REDACTED]	<u>COMPANION(S):</u> <u>NAME</u> [REDACTED]		<u>CASE ID</u> [REDACTED]	<u>JO/DJO</u> [REDACTED]	
		<u>STATUS</u> Juv Referral Rjcted Insuf Evid			

This tells you that the case was rejected and that it was due to insufficient evidence

JIS CONTINUED ADJUDICATION/DISPOSITION

List of original charges

This tells you the services that this child received while in the detention center

FORMAL CASE(S):						
CASE ID	FILED	RISK	NEEDS	COUNTY LOCATION	JO/DJO	
			12	City of St. Louis		
SOURCE			ARREST AGENCY			COMPLAINT NUMBER
			(MO0950000) PD ST LOUIS COUNTY			
FILE LOCATION	DATE		CASE STATUS			DATE
E-CASE - Entire Case File Electronic			Warrant Served			
ALLEGATIONS OCCURRED	DESCRIPTION	CHARGE LEVEL	ALLEGATION DISPOSITION	DISPOSITION DATE		
	Juvenile Formal Supervision/Technical Violation	JU				
	Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana/Synthetic Cannabinoid	FD	Allegation Dismissed-Juv			
	Unlawful Use Of Weapon - Subsection 11 - Possess Weapon And A Felony Controlled Substance	FE	Allegation Dismissed-Juv			
	Leaving Scene Of Accident	MA	Allegation Dismissed-Juv			
	Assault - 4th Degree - Pursuant To Subdivisions (1), (2), (4), (5)	MA	Allegation True-Juv			
	Resisting/Interfering With Arrest, Detention Or Stop	MA	Allegation Dismissed-Juv			
SERVICE/SANCTION	AGENCY	LEVEL	ORDERED DATE	START DATE	END DATE	OUTCOME
	ST LOUIS CITY JUVENILE OFFICE	NO CLASSIFICATION				UNSUCCESSFULLY COMPLETED
	ST LOUIS CITY JUVENILE OFFICE	HDP OTHER				SUCCESSFULLY COMPLETED
	PSYCHOLOGICAL SERVICES					Successfully Completed
	ST LOUIS CITY JUVENILE OFFICE	NO CLASSIFICATION				UNSUCCESSFULLY COMPLETED
	ST LOUIS CITY JUVENILE OFFICE	MISDEMEANOR				
	ST LOUIS CITY JUVENILE OFFICE	Intensive Supervision				Recommendation Accepted
	ST LOUIS CITY JUVENILE OFFICE					
	PSYCHOLOGICAL SERVICES					Successfully Completed

This tells you the outcome of the services provided in the detention center

2017 DEPUTY JUVENILE OFFICER STANDARDS

- 1.14: SHALL utilize JDTA in contemplation of “all decisions to detain a juvenile, keep, and report data related to administration of JDTA and make available alternatives to detention”
- SHOULD BE FILED with the Court
- SHALL be presented to the judge within 24 hours of the juvenile being taken into custody
- You Should be getting a copy of the JDTA along with the JIS Summary
- Motions to modify
- This includes Community based alternatives for status offenders!! 1.19



MISSOURI'S JUVENILE DETENTION ASSESSMENT (JDTA) FORM 4/1/13

Juvenile Name:

Race:

JD Code:

Juvenile ID (JIS, if available):

Gender:

SSN:

Assessment Staff:

DOB:

Assessment Date/Time:

Presenting Offense:

Case ID:

FACTOR

SCORE

1. Capias, Court Order or Warrant

- A. Capias for secure detention.....15
- B. Court order for secure detention.....15
- C. None.....0

2. Most Serious Presented Offense

- A. A or B felony, felony sex offense, or unlawful felony possession or use of a firearm or explosive device.....15
- B. Other felony offense *against person*.....12
- C. Other felony.....11
- D. Misdemeanor sex offense, with prior sex offense referral, or easy access to a victim.....10
- E. Other misdemeanor sex offense.....5
- F. Misdemeanor *against person* involving injury.....4
- G. Other misdemeanor.....3
- H. Infraction or municipal offense.....1
- I. Supervision/Technical violation.....1
- J. Status Offense.....0
- K. None.....0

3. Unrelated Presented Offenses

- A. Two or more unrelated felonies.....3
- B. One unrelated felony.....2
- C. One or more unrelated misdemeanor(s).....1
- D. None.....0

FACTOR

SCORE

4. Prior Juvenile Referrals

- A. 5 or more sufficient law violation referrals.....10
- B. 3-4 sufficient law violation referrals.....8
- C. 1-2 sufficient law violation referrals.....6
- D. None.....0

5. Current Legal Status

- A. Alternatives to secure detention failed.....5
- B. Currently in DYS custody.....4
- C. Felony or misdemeanor petition pending.....3
- D. Current formal or informal supervision for a law violation.....2
- E. None.....0

6. Flight Risk

- A. Prior escape from secure detention facility.....5
- B. Prior failure to appear for court hearing.....4
- C. Prior escape from custody (DJO or law enforcement).....3
- D. Out-of-state resident/runaway.....2
- E. None.....0

Assessment Score: 17

Indicated Decision: 1 - 9 = Release
10 - 14 = Detention Alternative
15 & above = Detention

This should only be utilized if there is an "at large" or child is capias, NOT for technical violations

This is for current unrelated offense-not priors

Factor 4 is where you can utilize the JIS. It says sufficient law violation referrals... I would argue that does not mean rejected referrals. It also does not mean CD referrals or Status offenses

Indicated decision shows you what the recommendation should be

JDTA Continued

Reason for Override:	
<input type="checkbox"/> O11DET No suitable custodian/parent/guardian or other suitable person	<input type="checkbox"/> O21ALT Mental health placement obtained
<input type="checkbox"/> O12DET Serious or credible threat to a witness	<input type="checkbox"/> O22ALT Does not meet local age guidelines
<input type="checkbox"/> O13DET Serious or credible threat to the victim	<input type="checkbox"/> O23ALT Medical condition
<input type="checkbox"/> O14DET Serious or credible threat to the community	<input type="checkbox"/> O24ALT Pregnancy
<input type="checkbox"/> O15DET No non-secure alternative is immediately accessible	<input type="checkbox"/> O25ALT Non-secure alternative utilized
<input type="checkbox"/> O16DET No non-secure appropriate alternative exists	<input type="checkbox"/> O26ALT Other (provide separate explanation)
<input type="checkbox"/> O17DET Out-of-state runaway/missing person (no capias)	
<input type="checkbox"/> O18DET Other (provide separate explanation)	<input type="checkbox"/> O31REL Does not meet local age guidelines
	<input type="checkbox"/> O32REL Medical Condition
	<input type="checkbox"/> O33REL Pregnancy
	<input type="checkbox"/> O34REL Referral insufficient – Released
	<input type="checkbox"/> O35REL Other (provide separate explanation) – Released
Explanation for “Other” override: _____	
Supervisory override authorized by: _____	

FINAL DECISION:	<input type="checkbox"/> Release <input type="checkbox"/> Detention Alternative <input checked="" type="checkbox"/> Detain

The provision for an override of the JDTA scoring recommendation shall include supervisory approval, and the juvenile officer must make reasonable efforts to limit overrides from detention alternatives or release to no more than 15% of the juveniles assessed for placement in secure juvenile detention. Mo Juvenile Officer Standards 1.14 p. 22 (2017)

ARGUMENTS ABOUT REFERRAL NUMBERS

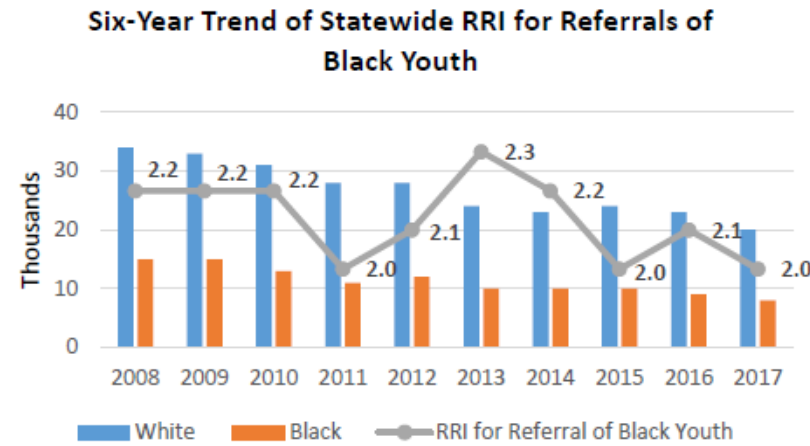
This means that black youth are 2.1 times more likely to be referred to court than other youth

Contact Point	Black	Hispanic	Asian / Pacific Islander	Native American
Referral	2.0	0.4	0.2	
Diversion	0.9			
Secure Detention	1.9			
Petition	1.4			
Adjudication	0.9			
Supervision	0.8	0.2		
Secure Confinement	0.8			
Certification	5.7			

Note: Caution should be used when interpreting the Hispanic data, because race and ethnicity are not separated in JIS. Thus, Hispanic youth are under-counted.

Figure 11-1 Six-Year Trend of Statewide RRI for Referrals of Black Youth

The RRI for referrals of black youth decreased from 2008 to 2011, but it subsequently increased from 2011 to 2013 before declining in 2014 and 2015 and then increasing in 2016. The reason for this is that, although referrals declined for all youth from 2010 to 2016, they did not do so evenly across groups in each year.



NOW WHAT?

- ▶ You have all the documentation: the Petition, the PC statement, the JIS, order of Detention and JDTA
- ▶ GO visit your child! They are great resources of information. Also make sure the child understands the role of the players in the room. And, make sure you know what your child wants. Some (not many, but it has happened) children want to stay detained, OR go with someone that is not their parent.
- ▶ Call the parents, make sure they understand the process, and what will happen at the detention hearing.
- ▶ Then, you have to decide if you want to present evidence at the detention hearing!



AT THE DETENTION HEARING

Things to know

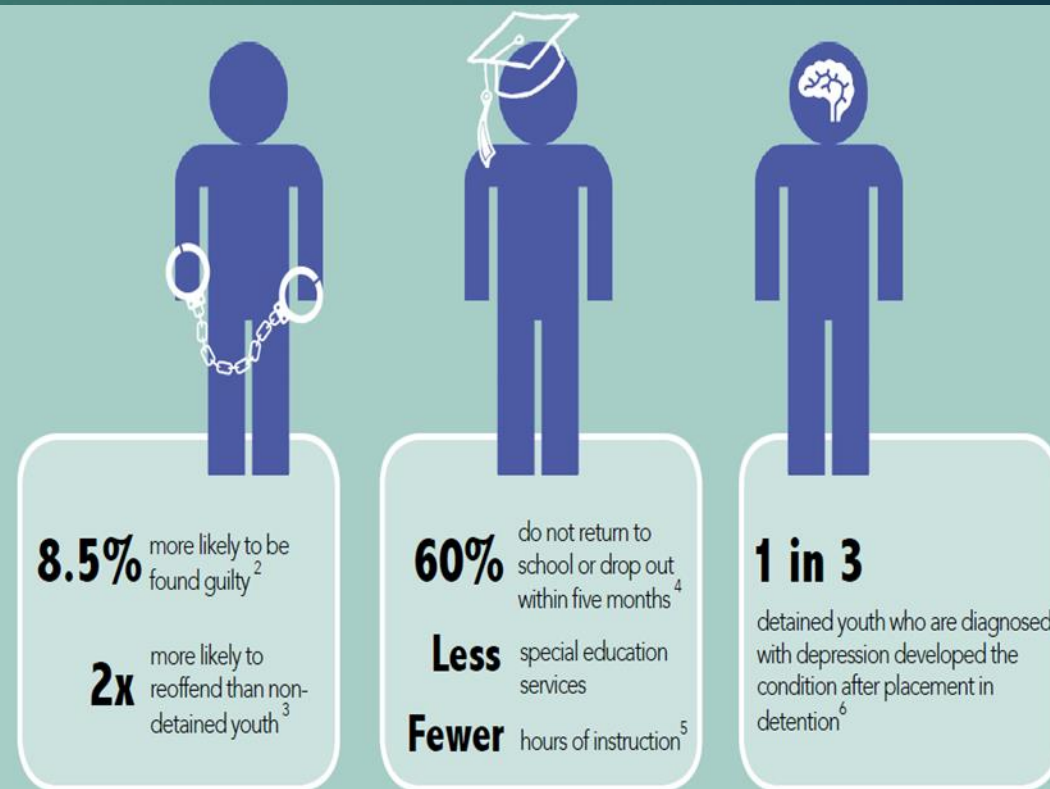
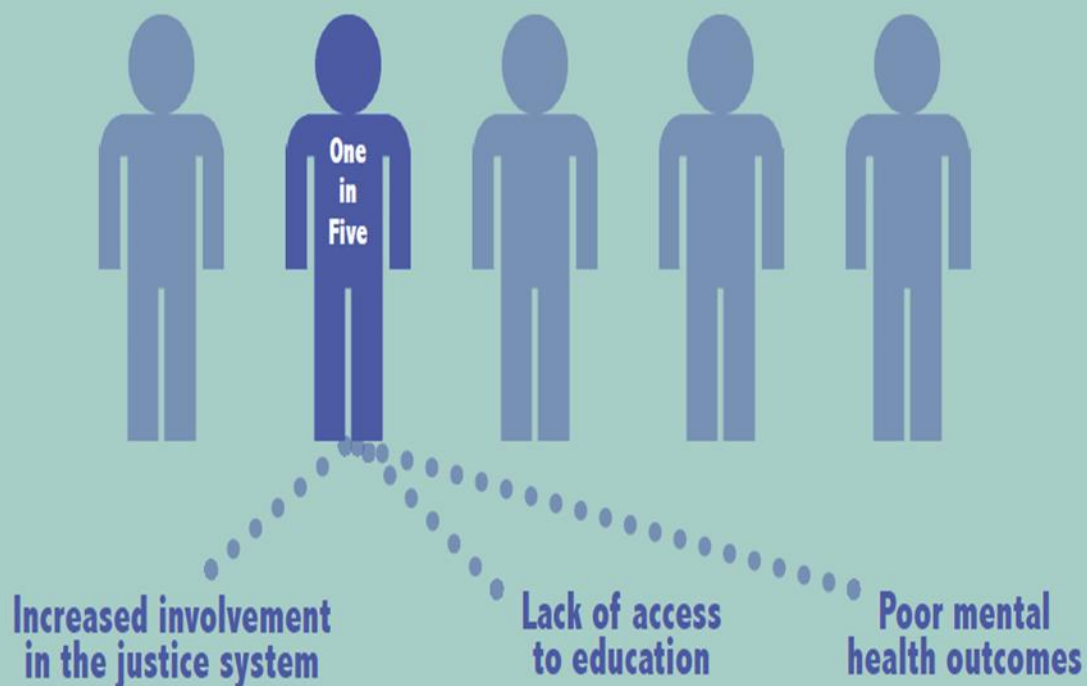
- ▶ Kids SHALL NOT be shackled absent a demonstrated safety risk AND NOTICE (DJO standard 1.17)
 - You have the ability to challenge Probable Cause
 - See DOJ agreement, P 10
- BEWARE of the phrase “he has been charged with a safe school act violation therefore he should remain detained”
- Suspension and expulsion “shall not relieve the state or the suspended student’s parents or guardians of their responsibilities to educate the student” RSMO 167.164
- District pays cost of alternative education, but may contract with public or private agencies to provide services
- Does not automatically mean that a child cannot come back to school.



KNOW YOUR ARGUMENTS ABOUT WHY DETENTION DOESN'T WORK

- Look at the “No place for Kids” article by the Annie E. Casey Foundation and the Harms of Juvenile Detention By NJDC

More than 1 in 5 children awaiting adjudication spend time in pre-trial detention.¹



Longer stay in Detention does NOT mean a Lesson learned

- Longer stays in juvenile institutions do not reduce recidivism.

Edward P. Mulvey, Highlights
From Pathways to Desistance: A
Longitudinal Study of Serious
Adolescent Offenders, OJJDP Juvenile
Justice Fact Sheet (March, 2011),



What finding the court must make after Detention Hearing

- ▶ The juvenile shall not be detained unless the court finds detention is required:
- ▶ 1) to protect the juvenile; or
- ▶ 2) to protect the person or property of others
- ▶ 3) because the juvenile may flee or be removed from the jurisdiction of the court; or
- ▶ 4) because the juvenile has no parent, guardian, or custodian or other suitable person able or willing to provide care and supervision for the juvenile and return the juvenile to court when required; or
- ▶ 5) because the juvenile is a fugitive from another jurisdiction and an official of that jurisdiction has requested the juvenile be detained pending return to that jurisdiction.

What findings the court must make, continued

- ▶ f. At the conclusion of the detention hearing, the court shall:
 - ▶ (1) order the juvenile released pursuant to [Rule 127.02](#); or
 - ▶ (2) order the juvenile detained.
- ▶ g. If the court orders the juvenile detained, the court shall review the order of detention every 30 days thereafter until entry of a final order of disposition.
- ▶ h. If the court orders the juvenile detained, the court shall conduct the adjudication hearing on the petition or motion to modify under [Rule 128.02](#) at the earliest possible date.



If your kid remains detained...

1.16 USE OF SOLITARY CONFINEMENT

The juvenile officer shall prohibit the use of solitary confinement of juveniles and limit seclusion, room restriction, and segregation to short-term emergency circumstances only. All forms of seclusion shall be utilized for the least amount of time possible and only for the immediate physical protection of the subject juvenile and others and shall not be utilized as discipline, the convenience of facility personnel, or staffing resource issues.



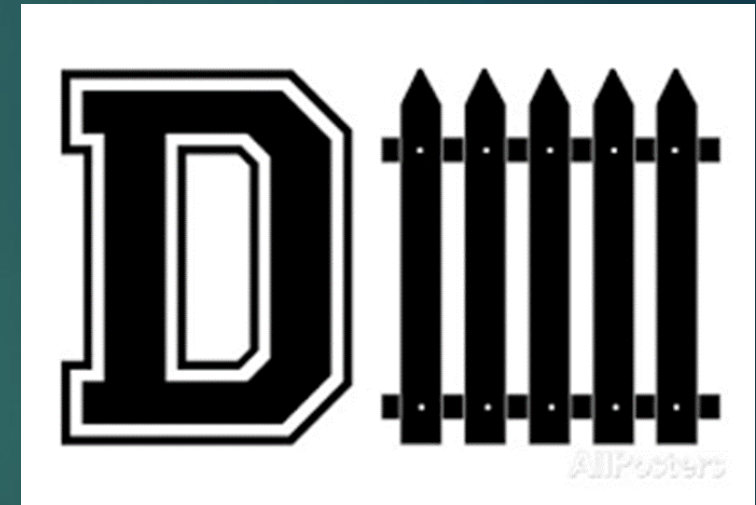
SCENARIO #1

Tyler is picked on a tampering first degree

He is initially detained by the court

You had your detention hearing, and **YAY**, Tyler was released. You have set the adjudication and disposition hearing for 30 days out.

- 1) WHAT DOCUMENTS DO YOU NEED TO GET READY?
- 2) WHO DO YOU NEED TO TALK TO TO GET READY?
- 3) WHAT RULES, STATUTES OR STANDARDS DO YOU NEED TO LOOK AT TO GET READY?
- 4) WHAT ARGUMENTS WILL YOU MAKE AT THE ADJUDICATION AND DISPOSITION HEARING?



ADJUDICATION HEARING DISCOVERY PRACTICE

- ▶ Discovery: **Mo SCT Rule 127.11** “any proceeding under subdivision (3) of subsection 1 of section [211.031, RSMo](#), which shall be governed by [Rule 25](#).”
- ▶ **DJO Standard 2.12** “The juvenile officer shall provide information as available and may be practicable prior to the detention hearing and all discovery as soon as practicable but no later than 10 days following the detention hearing”



MENS REA

We need to change our outlook on how we try juvenile cases

1. kids are impulsive
2. easily influenced by peers and older adults
3. don't understand the future consequences of their actions



many laws are being used against them that are actually meant to protect them

eg. Child endangering, statutory sex offenses,

“REASONABLE CHILD” Standard in JDB v. North Carolina!!!

Introducing adolescent-specific jury instructions

When deciding the question of the Juvenile's intent, one must/may consider what is expected from an adolescent of similar age and development. Special caution must be taken when determining whether a Juvenile acted with the intent required for this offense. Anybody who is familiar with adolescent behavior knows intuitively that adolescents do not necessarily think or behave like adults.² These behavioral differences are pervasive and scientifically documented. Their judgments, thought patterns and emotions are different from adults'. Moreover, their brains are physiologically underdeveloped in the areas that control impulses, foresee consequences, and temper emotions. They handle information processing and the management of emotions differently from adults.³

When you consider what, if any, reasonable inference to draw from the defendant/juvenile's actions, you may consider that the defendant/juvenile is ____ years old. Juveniles are different from adults in many ways.



COMMON ISSUES?



- ▶ Police questioning kid without parent present- in violation of 211.059- kid must be notified both in writing and orally of their rights with child
- ▶ In this case- did kid have keys and believe that car was not stolen- **reasonable child standard**
- ▶ kid being searched without consent
- ▶ Kids **WAIVING** counsel
- ▶ Lots of kids in stolen car- charging one that they caught
- ▶ Bad lineups/showups in robberies



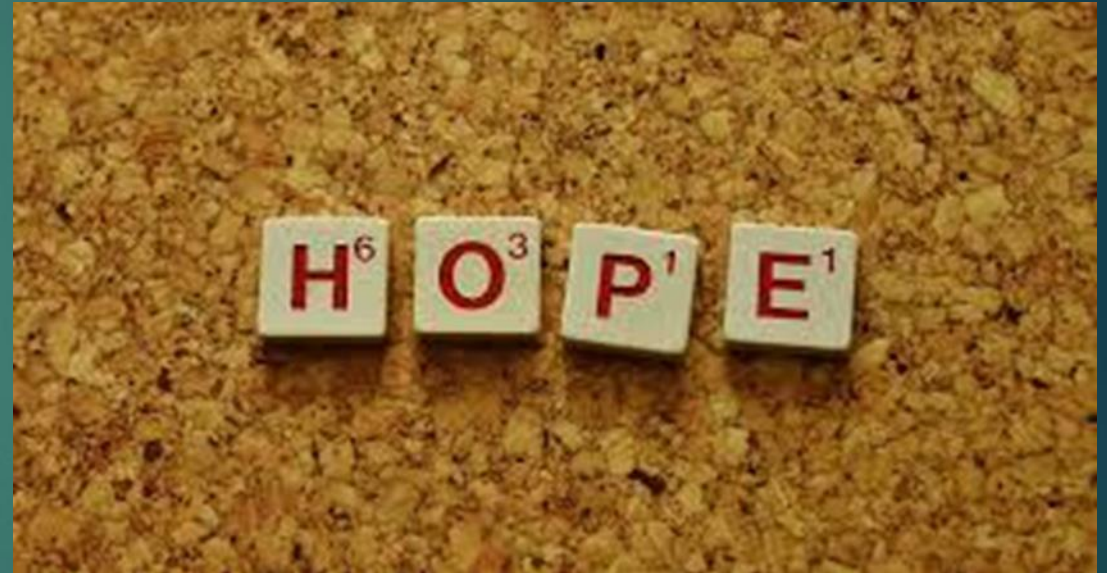
DISPOSITION

Tyler is picked on a tampering first degree

He is initially detained by the court

The judge found your child guilty of the tampering but not of the resisting arrest.
You now have disposition.

- 1) WHAT DOCUMENTS DO YOU NEED TO GET READY?
- 2) WHO DO YOU NEED TO TALK TO TO GET READY?
- 3) WHAT RULES, STATUTES OR STANDARDS DO YOU NEED TO LOOK AT TO GET READY?
- 4) WHAT ARGUMENTS WILL YOU MAKE AT THE DISPOSITION HEARING?



Witnesses to consider calling

- ▶ Family
- ▶ Relative/caretakers
- ▶ Children's division workers
- ▶ Guardian ad litem
- ▶ Church members
- ▶ School teachers/mentors
- ▶ Extra curricular mentors/coaches



Documents to consider gathering and presenting

- ▶ Letters of support from mentors, coaches, community members
- ▶ School records/attendance records
- ▶ Mitigation/disposition memo
 - ▶ Outlining adolescent brain development
 - ▶ Remorse (if that is part of your strategy)
 - ▶ Future thinking
 - ▶ Positive pro-social contacts
 - ▶ Future goals



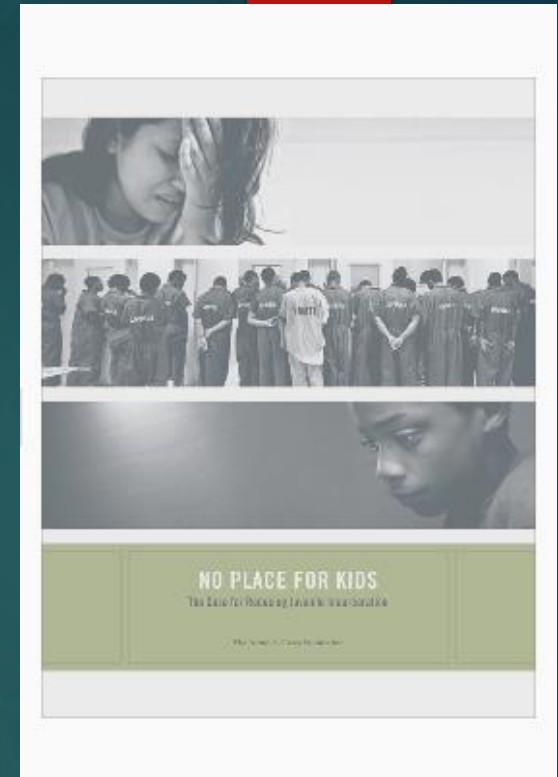
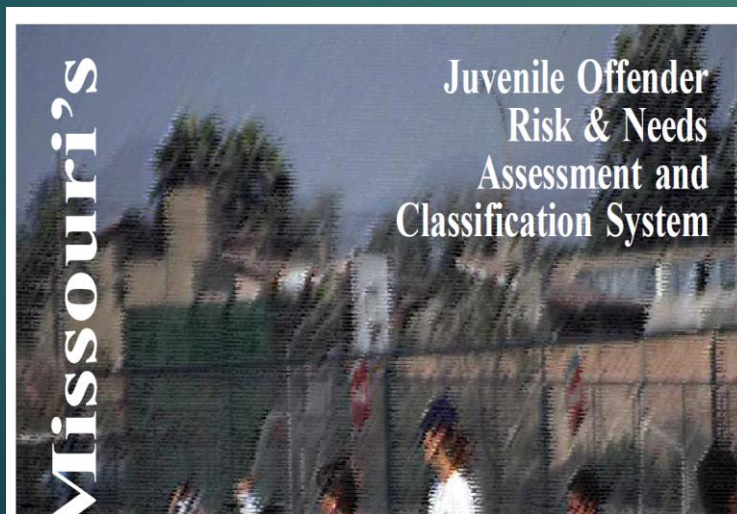
SOCIAL FILE

- ▶ The social file is a wealth of information
- ▶ DON'T WAIT TO GET THIS
- ▶ Important for both adjudication and disposition
- ▶ **DJO standard 2.14-** you are entitled to the Social 5 business days before the hearing, as well as the risk and needs assessment
- ▶ DJO's are required to be trained on adolescent brain development, trauma, gender-specific consideration and trafficking indicators; family dynamics and intervention strategies, substance abuse identification and treatment, cultural competency and implicit bias **STD 1.4**



DJO Recommendation

- ▶ DJO standard 3.1: Evidence based- best practice, model program or promising program... **least restrictive appropriate intervention for the juvenile. . . Emphasis on community-based services**
- ▶ **MO statute 211.181**
- ▶ **Mo Statute 211.185, 211.188 Restitution**
 - ▶ **There may be a restitution cap in your jurisdiction!**
 - ▶ **Consider having a restitution hearing**



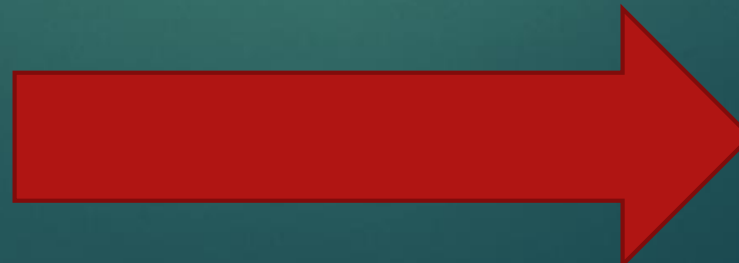
COLLATERAL CONSEQUENCES



If a child has been adjudicated of a felony, it is an OPEN RECORD



Can be used against children in immigration proceedings, future employment, schooling, military service



Can be used to enhance sentences in federal court

APPEAL!!!!



Call either myself, or Craig Johnston in Columbia Appellate- we need more juvenile appeals and juvenile issues litigated- we often win when we challenge issues!!!

SYSTEMIC ISSUES

- ▶ WE NEED TO STOP CHILDREN FROM WAIVING COUNSEL!!
HB 42 and SB 395
- ▶ Help the push for Raise the Age Implementation
- ▶ Challenge Mandatory minimums for Children charged with serious offenses
- ▶ Challenge children being charged with felony murder
- ▶ Challenge the STATUS QUO- its not "JUST" juvenile court, not just a juvenile case
 - ▶ APPEAL
 - ▶ CHALLENGE CERTIFICATION


The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated, and the condemned.

We are all implicated when we allow other people to be mistreated.

Bryan Stevenson
Just Mercy



THANK YOU!

A photograph of a staircase with a sign on the wall. The sign is divided into three horizontal sections, each containing a line of text. The text reads: "Long live the rose that grew from the concrete when no one else ever cared." Below the sign, there is a small red sign that says "Tuzac Shokur".

Long live the rose that grew
from the concrete when no
one else ever cared.

Sarah Johnson
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and Policy
(314) 340-7625
Cell (314)616-3555