

# DEFENDING YOUTH

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St. Louis Children's Defense Team



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

- Lack of experience
- Harder to communicate with kids
- Difficult to work with parents
- LOTS of collateral issues to deal with: school, mental health, registration, family
- It is lonely! Not many people do this work!
- Feels like the decision has *already been made before* I walk in the door
- The judges only care about what the DJOs have to say
- Trials are slow guilty pleas - what is the point?

CUSTODY

PETITION

DISPOSITION

DEPUTY JUVENILE OFFICER

JUVENILE COURT LINGO

NOIHS  
SOCIOS

ADJUDICATION

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COMPLAINT.....PETITION  
PROSECUTOR.....LEGAL OFFICER  
PRELIMINARY HRG.....DETENTION HRG  
TRIAL.....ADJUDICATION  
SENTENCING.....DISPOSITION  
PROBATION.....SUPERVISION  
DOC.....DYS  
PROBATION OFFICER.....DJO  
PROBATION REVOCATION....MOTION TO MODIFY  
SAR.....SOCIAL INVESTIGATION

# KIDS HAVE RIGHTS TOO

- It all started with In Re Gault, SCOTUS 1967:
  - Right to notice of charges
  - Right to counsel
  - Right to confront and cross examine witnesses
  - Privilege against self-incrimination
  - Presumption of innocence
  - Proof beyond a reasonable doubt
  - Subpoena power
- **Purpose of Chapter 211**: To facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court. Each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control as will conduce to the child's welfare and the best interests of the state. The child welfare policy of this state is what is in the best interests of the child.

# BEST INTERESTS OF CHILD DOES NOT OUTWEIGH DUE PROCESS

**BEST  
INTERESTS**



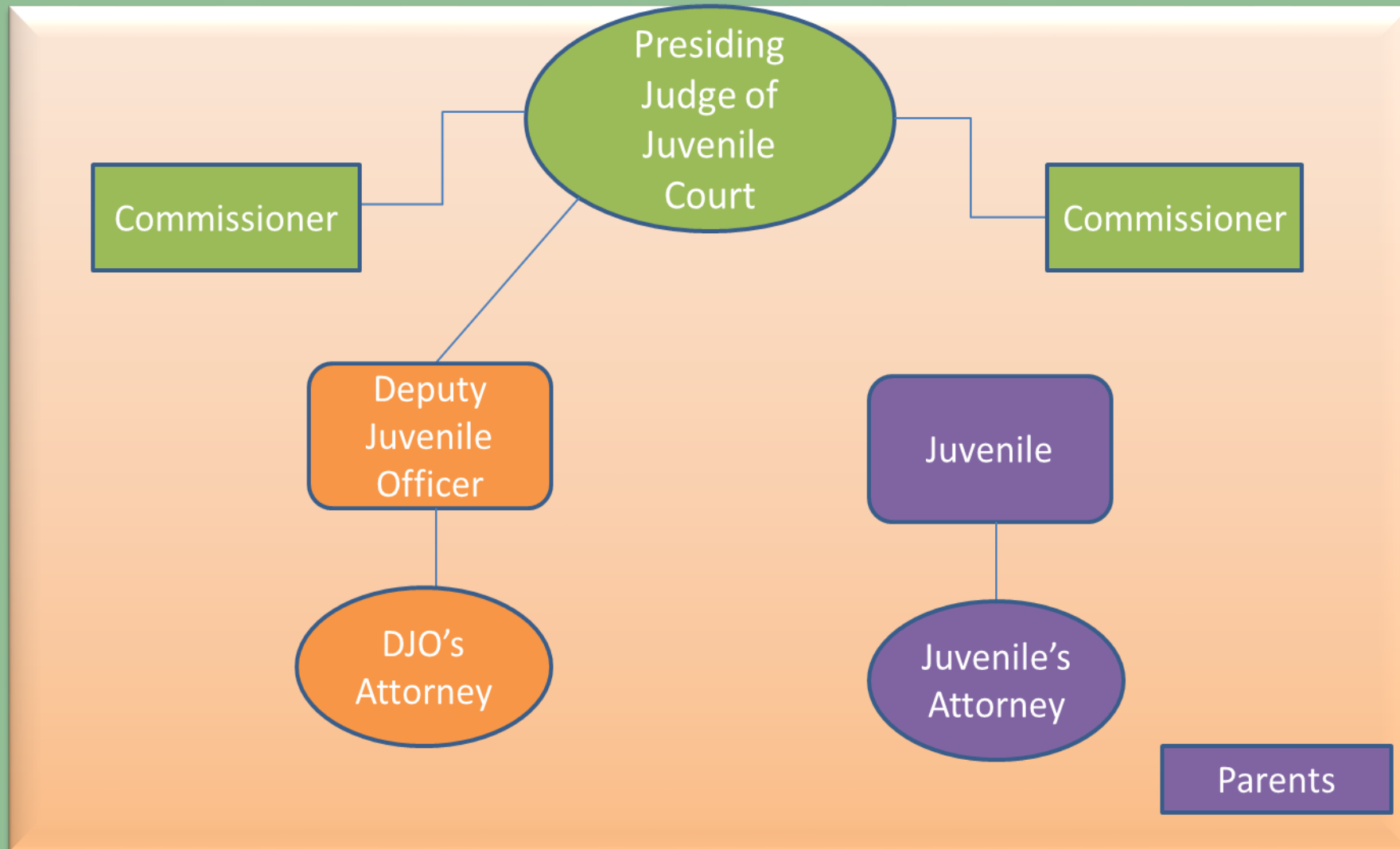
**DUE  
PROCESS**

“There may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children” Kent v. United States, 383 U.S. 541, 556 (1966).

# EXPRESSED INTEREST $\neq$ BEST INTEREST

- Must always provide additional information in order to make sure client is fully informed of possible outcomes
- Offer opportunity to reconsider
- But in the end: expressed interest trumps all

# Key Participants in the Juvenile Justice System



# DEPUTY JUVENILE OFFICER

TAKES APPLICATION FOR  
CUSTODY FROM POLICE

PUTS CHILD IN LINEUP

READS CHILD MIRANDA RIGHTS

CONTACTS CHILD'S PARENTS

CHECKS ON CHILD IN  
DETENTION

RECOMMENDS RELEASE OR  
DETENTION



TESTIFIES AT DISPOSITION

RECOMMENDS CERTIFICATION

ACTS AS PROBATION OFFICER

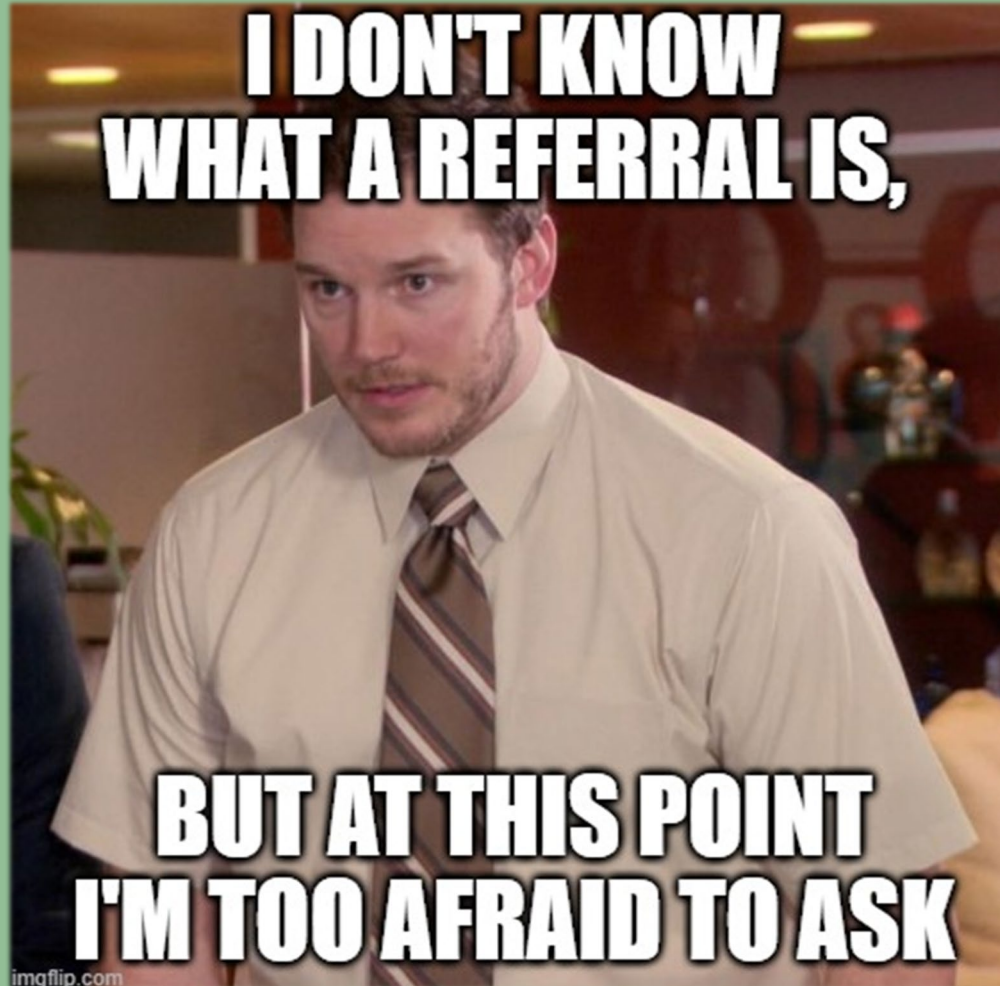
FILES REQUEST FOR  
REVOCATION OF SUPERVISION

TESTIFIES AT MOTION TO  
MODIFY

TALKS TO PARENTS

NOTIFIES SCHOOL

**I just got assigned a juvenile case . . . NOW WHAT!?**



# JUVENILE REFERRAL REPORT

- The initial information provided to the juvenile officer from the referring agency
- Includes the identifying information and basis for the jurisdiction of the juvenile court
- The juvenile officer shall make an initial and prompt determination regarding the sufficiency of the referral and determine whether:
  - the jurisdictional elements are established in the referral;
  - the referral contains a clear statement of the act alleged;
  - there is sufficient evidence to support action by the juvenile officer; and
  - the information supports the need for action by the juvenile officer.

MISSOURI JUVENILE OFFICER  
PERFORMANCE STANDARDS

2017

# INITIAL DETENTION: WHAT HAPPENS

Police detain child



Police bring child to juvenile court



DJO receives referral from police



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

# **COURT DOCUMENTS FILED IN ALL JUVENILE DELINQUENCY CASES**

- PETITION
- PROBABLE CAUSE AFFIDAVIT
- INITIAL DETENTION ORDER
- JIS – JUVENILE INFORMATION SUMMARY
- JDTA – MISSOURI JUVENILE DETENTION ASSESSMENT FORM

# 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 1<sup>st</sup> and Felony Fleeing

# JUVENILE INFORMATION SUMMARY

## What you need to know about the “JIS”:

- 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!!!

# JIS CONTINUED

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: [REDACTED]

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

NEW COURT LOCATION: 15-Mar-2018

EVENT: Disposition Hearing

Good  
background  
info to have!

DJO info

DJO contact info

Referral  
number total

# JIS CONTINUED (REFERRAL FROM CD)

This tells you  
who the  
referral came  
from



<b>INFORMAL CASE(S):</b>							
<u>CASE ID</u>	<u>FILED</u>	<u>RISK</u>	<u>NEEDS</u>	<u>COUNTY LOCATION</u>	<u>JO/DJO</u>		
[REDACTED]	[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

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

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

This tells you that services were terminated after informal adjustment attempts

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

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>	<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 (ADJUDICATIONS)

This is the  
risk/needs score

FORMAL CASE(S):		RISK	NEEDS	COUNTY LOCATION	JODJO	
CASE ID	FILED	12	12	City of St. Louis		
<u>SOURCE</u>		<u>ARREST AGENCY</u>		<u>COMPLAINT NUMBER</u>		
		(MO0950000) PD ST LOUIS COUNTY				
<u>FILE LOCATION</u>	<u>DATE</u>	<u>CASE STATUS</u>		<u>DATE</u>		
E-CASE - Entire Case File Electronic		Warrant Served				
<u>ALLEGATIONS OCCURRED</u>	<u>DESCRIPTION</u>	<u>CHARGE LEVEL</u>	<u>ALLEGATION DISPOSITION</u>	<u>DISPOSITION DATE</u>		
	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			
<u>SERVICE/SANCTION</u>	<u>AGENCY</u>	<u>LEVEL</u>	<u>ORDERED DATE</u>	<u>START DATE</u>	<u>END DATE</u>	<u>OUTCOME</u>
	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	24-Oct-2017	24-Oct-2017	24-Oct-2017	Recommendation Accepted
	ST LOUIS CITY JUVENILE OFFICE		24-Oct-2017			
PSYCHOLOGICAL SERVICES		20-Mar-2018	20-Mar-2018	27-Mar-2018	Successfully Completed	

List of original  
charges

This tells you  
which services  
were provided

One allegation  
was admitted  
to, the rest  
were dismissed

This tells you  
the outcome  
of the services  
provided

# JDTA

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

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

Juvenile Name: [REDACTED] Race: [REDACTED] JD Code: [REDACTED]  
Juvenile ID (JIS, if available): [REDACTED] Gender: [REDACTED]  
SSN: [REDACTED] Assessment Staff: [REDACTED]  
DOB: [REDACTED] Assessment Date/Time: [REDACTED]  
Presenting Offense: [REDACTED] Case ID: [REDACTED]

### 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

Factor 4 is where you can utilize the JIS. It says sufficient law violation referrals... argue that this 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:**

☐ O11DET No suitable custodian/parent/guardian or other suitable person  
☐ O12DET Serious or credible threat to a witness  
☐ O13DET Serious or credible threat to the victim  
☐ O14DET Serious or credible threat to the community  
☐ O15DET No non-secure alternative is immediately accessible  
☐ O16DET No non-secure appropriate alternative exists  
☐ O17DET Out-of-state runaway/missing person (no capias)  
☐ O18DET Other (provide separate explanation)

☐ O21ALT Mental health placement obtained  
☐ O22ALT Does not meet local age guidelines  
☐ O23ALT Medical condition  
☐ O24ALT Pregnancy  
☐ O25ALT Non-secure alternative utilized  
☐ O26ALT Other (provide separate explanation)

☐ O31REL Does not meet local age guidelines  
☐ O32REL Medical Condition  
☐ O33REL Pregnancy  
☐ O34REL Referral insufficient – Released  
☐ O35REL Other (provide separate explanation) – Released

Explanation for “Other” override: \_\_\_\_\_

Supervisory override authorized by: \_\_\_\_\_

**FINAL DECISION:**

☐ Release

☐ Detention Alternative

☒ 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)

# 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”
- JDTA **SHOULD BE FILED** with the Court
- JDTA **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

MISSOURI JUVENILE OFFICER  
PERFORMANCE STANDARDS

2017

# 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 the players, and what will happen at the detention hearing. Put together a home safety plan.
- Decide if you want to present evidence at the detention hearing!

# DETENTION HEARING

- All the players are in court for the first time
- Judge will read the charges
- Address Probable Cause
- Address whether the child will be detained or released to someone else's custody
- Get a new court date
- Stay tuned! A LOT more info to come in our special session



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# 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.
- **MO Supreme Court Rule 127.08**

# PREPARING YOUR CASE: DISCOVERY

- 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”
- Everything you would receive in a criminal case (police report, 911/dispatch audio, body cam, surveillance, etc.)
- **YOU NEED IT QUICKLY!** Juvenile cases move fast!

# ETHICAL CONSIDERATIONS

- Discovery meeting with your youthful client
  - Do they understand what happens at a trial?
  - Do they understand what the good and bad facts of their case are?
  - Have they seen all of the discovery?
  - Obtaining HIPAAs and other releases for records
- Talk with your client about:
  - Investigation
  - Plea Negotiations
  - Admitting v. Having a Trial
- Empower them to decide whether a trial is in their best interest

# 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**

# CERTIFICATION

- RSMo 211.071
- Who can be certified?
  - A child between the ages of 12 and 17 (soon to be 18),
  - Who is alleged to have committed a delinquent act that would be a felony if they were an adult, and
  - A motion is made by the court, juvenile officer or the child's custodian to transfer the child's case to adult court

# CERTIFICATION (CONTINUED)

- The court SHALL order a hearing if the petition alleges:
  - Murder 1<sup>st</sup>
  - Murder 2<sup>nd</sup>
  - Assault 1<sup>st</sup>
  - Forcible Rape or Rape 1<sup>st</sup>
  - Forcible Sodomy or Sodomy 1<sup>st</sup>
  - Robbery 1<sup>st</sup>
  - Distribution of Drugs
  - TWO OR MORE PRIOR UNRELATED OFFENSES WHICH WOULD BE FELONIES IF COMMITTED BY AN ADULT\*

## **CERTIFICATION (CONTINUED)**

- Judge has to decide whether to keep the child in juvenile court or allow him/her to be prosecuted as an adult.
- The inquiry is “whether the child is a proper subject to be dealt with under” the juvenile code and “whether there are reasonable prospects of rehabilitation within the juvenile justice system” RSMO 211.071.6

# WHAT CAN WE DO AT CERTIFICATION HEARING?

- Hire adolescent brain science expert
  - They can evaluate client
  - Explain differences between juveniles and adults to judge (brain functioning, propensity for growth, etc.)
  - Explain trauma & impact of adverse childhood experiences
- Call mitigation witnesses
  - Teachers, coaches, pastors, mentors, detention staff
  - Family -> People who can talk about trauma child has experienced

# ADJUDICATION: TRIAL

- Prepare your client for trial
  - Where will everyone be sitting
  - What are the witnesses going to say
  - Does he or she want to testify?
- The rules of evidence apply
- It is the Legal Officer's burden
  - Beyond a reasonable doubt for delinquent offenses
  - Clear and convincing evidence for status offenses

# **ADJUDICATION HEARING: ADMISSION**

- Prepare your client for the plea
  - Explain in age – appropriate language their trial rights
  - Talk to them about the questions the judge will ask
  - Tell them its ok to take a break and ask you questions during the plea
- Looks and feels a lot like an adult guilty plea

# **DISPOSITIONAL HEARING**

**“ADULTS ARE SENTENCED, YOUTH ARE PLACED”**

- The court makes a finding based on the best interest of the child and the community
- The court makes a determination regarding placement and services for the child and his/her family
- Parents/guardians can be ordered to participate in services
- 3 possible placements:
  - Return to custody of parents or guardians
  - Placed in private residential facility
  - Placed in the custody of Division of Youth Services (DYS)

# COURT ORDERED SUPERVISION



- If a child is placed in the home or at a residential facility, the Judge will place that child on official court supervision.
- The child will be under the supervision of a community based DJO.
- Services ordered and rules may include:
- Curfew, Restitution, Community Service, Participation in various court programs, School attendance, and/or Drug Drops.
- The Court reviews these cases every 3-6 months. Once the Court determines the youth has completed his service plan, the Court terminates jurisdiction.

# DISPOSITION DOCUMENTS

- Social Investigation Report
  - Completed by DJO
  - Based on conversations DJO had with family and client
  - Also based on school, medical, CD records
  - Contains personal information of child and family
  - Contains summary of the facts of the case as alleged by the state
  - Contains dispositional recommendation and lists services and conditions of supervision

# 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

# MOTIONS TO MODIFY

- Probation violations
- New law violations
- Client may be taken into custody and a detention hearing will be held
- Client can admit to violation or have a hearing
- Disposition is the same for a laws violation: placement options and services are all still available

# APPEAL !!!!!

- RSMo 211.261
- May be taken by parent or child
- Within 30 days of judgment
- Cannot appeal adjudication- must have disposition
- Now includes certification!
- *In the Interest of D.E.G.*, 601 S.W.3d 212 (Mo. banc 2020)



# UPCOMING TRAINING OPPORTUNITIES

April 24, 12:00-1:00 PM, Virtual

- Missouri Juvenile Justice Association in collaboration with MSPD
- Informational Webinar with the Gault Center

June 8-10, MSPD Training Center

- MSPD Youthful Client Workshop
- Nationally recognized experts will be teaching about emerging youthful client issues!!!

# CONTACT INFO

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