

Policy 1: Juvenile Pre-Adjudicatory Offer Policy

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. An ADA should make an offer for a deferred adjudication in most cases. In the following cases, a deferred adjudication may not be appropriate:
 - a. Where the youth has a prior adjudication of delinquency;
 - b. Where the youth is charged with possessing a gun;
 - c. Where the youth is charged with an aggravated assault and has intentionally inflicted significant or serious bodily injury on the victim;
 - d. Where the youth is charged with rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault;
 - e. Where the youth is charged with a felony of the first degree where a weapon was used; or
 - f. Where the youth is charged with a delinquent act that involves the invasion of the home of another, and a weapon was used in the commission of the act.
2. In cases where a Reporting Consent Decree ("RCD") is inappropriate, an offer that includes the DAO's consent to expungement six months after the completion of probation should be considered.
3. All pretrial offers must be made available to defense counsel 48 hours before the pretrial listing of the case, so that defense counsel has the opportunity to review the discovery and discuss the offer with the child prior to the pretrial listing. Victims who have suffered a physical injury must also be notified of the offer prior to disposition and should be given an opportunity to address the Court, should they wish to do so.
4. Pre-adjudicatory hearing offers should remain open until forty-eight hours before the adjudicatory hearing listing, unless there is a significant change in the circumstances. An ADA may make the same offer on the day of the adjudicatory hearing if he or she believes it is appropriate and has discussed it with a supervisor.
5. Victims must be notified when pretrial offers are made and victims should be given the opportunity to address the Court.

Policy 2: Juvenile Reporting Consent Decree ("RCD") Policy

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. Reporting Consent Decrees ("RCDs"), a statutorily recognized form of juvenile diversion, shall be extended on cases where a misdemeanor is the lead charge and the child has no prior adjudications of delinquency or open cases. This does not apply to cases where the child is charged with possession of a gun, a serious sexual offense, or has

a history of serious violence. RCDs should also be offered to defendants charged with felonies, where appropriate.

2. RCDs should contain no more than three conditions. If the ADA offering the RCD thinks it appropriate, he or she may allow the Juvenile Probation Officer to set the conditions after the child has been evaluated using the Youth Level of Service/Case Management Inventory tool ("YLS"), which uses forty-two factors to identify the top three criminogenic needs of the youth. This test is often not completed at the time the offer is made, but may be the best guide as to the child's needs. However, regardless of the results of the YLS, only three conditions can be placed on the child.
3. RCDs should not require drug testing unless some evidence exists that the child may be using illegal drugs. If testing is appropriate, drug testing should be one of no more than three conditions.
4. An ADA may not recommend that an RCD be revoked because a child is using marijuana. A child who uses marijuana may be referred to treatment services if the problem is repeated or the child's guardian asks for treatment.
5. Children on an RCD shall not be required to complete more than twenty-five hours of community service without approval of a supervisor.
6. Victims must be notified when the DAO offers a child an RCD.

Policy 3: Juvenile Detention Policy

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. An ADA should recommend an alternative to detention at the time of any new arrest with the following exceptions:
 - a. The child is an immediate danger to his or her community or family;
 - b. The parent refuses to take the child home;
 - c. The child is charged with possessing a gun; or
 - d. The child has a history of violence and is accused of a new violent offense.

2. At bench warrant hearings and violation of probation hearings, alternatives to a child being held in detention at the Philadelphia Juvenile Justice Services Center ("JJSC") must be considered, including the following:
 - a. An alternative relative that a juvenile might stay with;
 - b. In Home Detention ("IHD");
 - c. Intensive Supervision Program ("ISP");
 - d. GPS (where a child would otherwise be held); and
 - e. Evening Reporting Center coupled with GPS.

3. An ADA may recommend that a child be held if he or she has gone absent without leave from an out-of-home placement.
4. Where a Hearing Officer has denied a joint recommendation from the ADA and defense counsel that a child be released, an appeal should be taken to the on-call judge, after consultation with a supervisor. At the hearing before the on-call judge, the grounds for release should be stated for the record. An ADA may include the cost of detention in his or her argument.
5. An ADA may not appeal a Hearing Officer's decision to release a child without the approval of a supervisor.
6. Victims must be informed as to whether or not the child has been detained or released.

Policy 4: Juvenile Disposition Policy

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. Where a youth has been found guilty of a delinquent offense at an adjudicatory hearing and placed on probation, an ADA should ask the Court for the following:
 - a. The least restrictive community supervision program available;
 - b. No more than three conditions of probation;
 - c. GPS only as a last resort before placement; if GPS is necessary, it should be reviewed at least every thirty days for necessity;
 - d. At the victim's request, an ADA may ask for a stay-away order.
2. An ADA should request a deferred adjudication when a child is found guilty at an adjudicatory hearing unless any the following circumstances are present, in which case an ADA should use his or her discretion:
 - a. Where the youth has more than one deferred adjudication;
 - b. Where the youth has a prior adjudication of delinquency;
 - c. Where the youth has been found guilty of possessing a gun;
 - d. Where the youth has been found guilty of rape, sexual assault, involuntary deviant sexual assault, aggravated indecent assault, or indecent assault graded as a felony of the third degree;
 - e. Where the youth was found guilty of a felony of the first degree and a weapon was used; or
 - f. Where the youth has been found guilty of a delinquent act that involves the invasion of the home of another, and a weapon was used in the commission of the act.

3. At the time of disposition, if the Court commits a child to a residential placement an ADA should recommend:
 - a. The closest residential placement that meets the needs of the child; and
 - b. No specific length of time of placement should be requested.
4. An ADA may not recommend that a child who has only been found guilty of committing a misdemeanor offense be sent to placement at the time of disposition, except with the permission of a supervisor.
5. An ADA may not recommend that a child under the age of 14 be sent to placement except with the permission of a supervisor.
6. An ADA should not ask for random marijuana screens as a condition of probation unless there is a reason to believe the child is using a controlled substance. The purpose of drug testing is to make sure that the juvenile is receiving appropriate services in the community.
7. An ADA should consider and inquire of probation officers about the educational needs of the child being placed and the programs available at the placements under consideration. No child should be sent to a placement that cannot meet his educational needs.
8. Victims must be notified as to the disposition of the case and afforded the opportunity to address the Court.

Policy 5: Juvenile Review Hearing Policy

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. Residential placement should only be sought if the following community interventions have proved ineffective or impossible:
 - a. The juvenile residing with an alternative family member;
 - b. Philadelphia Youth Advocates Program ("PYAP");
 - c. In Home Detention ("IHD");
 - d. Intensive Supervision Program ("ISP");
 - e. GPS monitoring; and
 - f. GPS-ERC.
2. Residential placement should not be sought for youth who have been found guilty of two or fewer misdemeanors, unless the child presents a significant, immediate danger to the community.
 - a. Probation "violations" such as missing curfew, failing to attend school, and the use of marijuana should be treated with community programming.

- b. If a child continues to violate his or her probation by missing curfew or school, or smoking marijuana after programing and services have been provided, an ADA may recommend that the Court open up a dependency petition so that the issues can be addressed in Dependency Court: incorrigibility is not an adequate justification to send a child to placement who has committed a misdemeanor offense.
3. An ADA should not recommend placement solely because a child violates curfew, even if these violations are repeated.
4. A negative school report should not be considered a violation of probation in-and-of itself. A negative school report should begin an inquiry into the young person's educational needs.
5. An ADA should not argue that the continued use of marijuana constitutes a violation of probation that mandates placement. The child should only be referred to drug treatment where the use of marijuana is repeated or the child's guardian asks for treatment.
6. A child should never be placed for failing to pay restitution or court fees.
7. When a child has been found to be in violation of his or her probation and in need of placement, a child does not necessarily need to be held, pending placement. An ADA's recommendation as to whether or not the child should be held while the probation officer plans should be based upon a consideration of the following:
 - a. If the child poses a danger to the community;
 - b. If a significant danger is posed to the child if he remains in the community; and
 - c. If an ADA fears that a child may run away while the probation officer plans placement. If the ADA so fears, he or she should recommend GPS and not ask that the child be taken out of the home.

Policy 6: The Use of Solitary Confinement

The DAO strongly opposes the use solitary confinement for all children. Solitary confinement—also known as room confinement, isolation, segregation, separation, seclusion and restricted housing—is the isolation of a child for any reason other than as a temporary response to behavior that threatens immediate harm to the youth or others. Keeping children in isolation can have long-lasting and devastating consequences on youth including trauma, psychosis, depression, anxiety and an increased likelihood of self-harm.

Isolating a child when he poses an immediate threat to himself or to others is appropriate for short periods of time, not exceeding several hours. Anything beyond this is unnecessary and causes trauma. Solitary confinement is not an appropriate form of punishment for young people.

There is no research suggesting that solitary confinement is an effective means of controlling the behavior of young people in custody, and yet isolation is not uncommon, particularly for those Philadelphia youth who are held in adult facilities. The DAO urges the Philadelphia Department

of Prisons to rethink its policy on juvenile solitary confinement and train its staff in alternative methods of discipline. We also ask that our juvenile justice partners monitor the placements where we send Philadelphia children to ensure that these methods are never used on our children.

Policy 7: Juvenile Bench Warrant Policy

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. When a juvenile fails to appear for his or her court date, an ADA should ask for a bench warrant but oppose the imposition of a "Bench Warrant Hold," "Bench Warrant—Do Not Release" or a "Judge Only Bench Warrant." These types of bench warrants mandate that a juvenile who fails to appear in court, once apprehended, is held in custody until he or she can be scheduled to appear before the judge assigned to his case—a process that can take up to two weeks. A Hearing Officer lacks the authority to release a juvenile held on one of these warrants. This delay in a substantive hearing violates the juvenile's right to due process, pursuant to 42 Pa. CSA § 6332, which states that a juvenile has a right to a detention hearing within 72 hours of apprehension
 2. When a Family Court judge states that he intends to order a "Bench Warrant Hold," a "Bench Warrant—Do Not Release" or a "Judge Only Bench Warrant," the ADA assigned to the case should state for the record that:
 - a. S/he opposes such an order because this office considers it a violation of the juvenile's due process rights and a violation of the Juvenile Act.
 - b. If the Court insists upon such an order, when the child is apprehended, s/he should see the issuing judge the following business day.
 3. An ADA should oppose any standing order that commits a child to a facility upon apprehension, usually called a "Bench Warrant Hold, Do Not Release, Commit to Placement Upon Apprehension." The circumstances of the individual juvenile should be addressed at the time of apprehension.
 4. Where one of the bench warrants described above has been ordered previously and a juvenile is apprehended and appears before the Hearing Officer, the ADA should request that the child be listed before the issuing judge on the following business day.
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