

## Juvenile Post-Disposition Review Hearings

“Postdisposition review” - hearings held after the juvenile delinquency court has ordered probation, treatment services, or placement, to ensure that the youth, parents, probation, service and placement providers are following through with the court ordered plan<sup>1</sup>

Mandatory review hearings encourage post-dispositional representation and serve as a program accountability tool for juvenile service providers.

### National Standards

- The importance of mandatory review hearings is very often discussed and intertwined with the importance of post-dispositional representation.
- “Review hearings are a critical tool for all juvenile justice stakeholders, both while the child is in placement and when they are released, and these hearings provide an opportunity to address concerns to the court and eliminate obstacles to an effective reentry.”<sup>2</sup>
- National Council of Juvenile and Family Court Judges - Juvenile Delinquency Guidelines (2005)<sup>3</sup>:
  - When the juvenile delinquency court judge decides to continue monitoring post-disposition progress after a youth has become engaged in court-ordered services, the first review, whether by hearing, conference, staffing, or report, should occur within the **first 60 days**.
  - Subsequent reports or reviews should be held **at least every 90 days**
  - Once the youth has entered placement, and up to the point of the submission of the finalized reentry plan, the juvenile delinquency court should use one of the methods of review described in Section E **not less than every 90 days**<sup>4</sup>.
    - Section E methods of review: progress reports, progress conferences, case staffings, and dispute resolution alternatives, in addition to juvenile delinquency court progress hearings, for youth who have been placed in the community and for youth who are reassessed as low risk to reoffend at the point of reentry planning
  - Should be representation and should be the same counsel at every hearing for the child

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<sup>1</sup> Nat'l Council of Juv. and Fam. Ct. Judges, Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases 231 (2005), defining postdisposition review.

<sup>2</sup> Sandra Simkins, Out of Sight, Out of Mind: How the Lack of Postdispositional Advocacy in Juvenile Court Increases the Risk of Recidivism and Institutional Abuse, 60 Rutgers L. Rev. 207, 215 (2007)

<sup>3</sup> Nat'l Council of Juv. and Fam. Ct. Judges, Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases 169 (2005)

<sup>4</sup> *Id.* at 182.

- Extensive guidelines for different types of hearings based on disposition, suggestions for hearing procedures and styles, recommendations for persons who should be present, etc.
- Institute of Judicial Administration and the American Bar Association - Juvenile Justice Standards
  - “[L]awyer should maintain contact with both the client and the agency or institution involved in the disposition plan in order to ensure that the client's rights are respected and, where necessary, to counsel the client and the client's family concerning the dispositional plan”
- The importance of postdispositional representation has been addressed by the American Bar Association, the National Association of Counsel for Children, the American Council of Chief Defenders, and the National Juvenile Defender Center.

### Examples of State Standards and Programs

- Pennsylvania<sup>5</sup>
  - Dispositional Review Hearing. The court shall review its disposition and conduct dispositional review hearings for the purpose of ensuring that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.
    - 1) In all cases, the court shall conduct dispositional review hearings **at least every six months**.
    - 2) In all cases, the juvenile shall appear in person at least once a year.
    - 3) The court may schedule a review hearing at any time.
  - Has mandated through legislation a juvenile’s right to counsel throughout the entirety of the juvenile court process, including post-disposition
- Michigan<sup>6</sup>
  - The court must conduct periodic hearings to review the dispositional orders in delinquency cases in which the juvenile has been placed outside the home. Such review hearings must be conducted at intervals designated by the court, or may be requested at any time by a party or by a probation officer or caseworker.
    - (2) Required Review Hearings.
      - (a) If the juvenile is placed in out-of-home care, the court must hold dispositional review hearings no later than **every 182 days after the initial disposition**, as provided in MCL 712A.19(2).

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<sup>5</sup> Rule 610 Pa.R.J.C.P.

<sup>6</sup> MI R SPEC P MCR 3.945



- Virginia<sup>10</sup>
  - During any period of confinement which exceeds 30 calendar days ordered pursuant to this section, the court shall conduct **a mandatory review hearing at least once during each 30 days** and at such other times upon the request of the juvenile's probation officer, for good cause shown. If it appears at such hearing that the purpose of the order of confinement has been achieved, the juvenile shall be released on probation for such period and under such conditions as the court may specify and remain subject to the order suspending commitment to the State Department of Juvenile Justice.
  
- Mississippi Youth Justice Project<sup>11</sup>
  - Has a contract with the Department of Protection and Advocacy and, pursuant to its role as class counsel in the lawsuit from the 1970s, to visit all the children in the state's training schools
  - Law students in the project provide postdispositional advocacy to reduce recidivism, decrease expenditures, prevent institutional abuse and gain real world experience
    - Upon commitment to the training schools every child receives a letter notifying them that lawyers from the MYJP are available and how to get in touch with them if any issues arise.
    - If a committed child does not contact the lawyers within 3-6 weeks, the MYJP contacts the child and arranges an individual meeting. The purpose of this meeting is to inform the child of her rights and to provide direction for how to access the grievance procedure should any future issues arise in the course of their detention.
  
- Maryland Juvenile Protection Division of the Office of the Public Defender<sup>12</sup>
  - Comprised of lawyers and social workers whose sole purpose is postdispositional advocacy
  
- New Jersey – JIDAN Postdisposition Pilot Project<sup>13</sup>
  - MacArthur grant
  - Idea was to have juvenile public defenders from two pilot counties refer post-disposition cases to law school clinical programs. The clinical programs would assume post-disposition representation and visit the child while they were in placement

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<sup>10</sup> Va. Code Ann. § 16.1-284.1 (West)

<sup>11</sup> Sandra Simkins, Out of Sight, Out of Mind: How the Lack of Postdispositional Advocacy in Juvenile Court Increases the Risk of Recidivism and Institutional Abuse, 60 Rutgers L. Rev. 207, 215 (2007)

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at. 245 (2012)

- North Dakota
  - No provisions on mandatory review hearings - only limitations on time on orders of disposition<sup>14</sup>
  - No clear requirement in ND law or in CLCI Standards for post-disposition representation
    - Juvenile is “entitled to counsel at public expense at proceedings commenced under section 27-20-30.1, and at custodial, post-petition, and informal adjustment stages of proceedings”<sup>15</sup>
      - In practice, juvenile must reapply for appointed counsel post-disposition and may not get the same attorney
    - Case assignment terminates 30 days after dismissal or upon expiration of time for filing an appeal after entry of an appealable order<sup>16</sup>

### **Publications**

- Nat'l Council of Juv. and Fam. Ct. Judges, Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases (2005), [http://www.ncjfcj.org/sites/default/files/juveniledelinquencyguidelinescompressed\[1\].pdf](http://www.ncjfcj.org/sites/default/files/juveniledelinquencyguidelinescompressed[1].pdf)
- National Juvenile Defender Center, National Juvenile Defense Standards 2013, <http://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf>

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<sup>14</sup> N.D.C.C. § 27-20-36. Limitations of time on orders of disposition

<sup>15</sup> N.D.C.C. § 27-20-26. Right to counsel

<sup>16</sup> *ND Commission on Legal Counsel for Indigents Minimum Attorney Performance Standards - Standard Regarding “Case Assignment Termination”*