



Understanding Juvenile Delinquency Law: A Primer for Practitioners and Attorney ad Litem

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- PRESENTED ON: DECEMBER 1, 2022

- COURSE NUMBER: 2210329N



Juvenile Justice System

FLORIDA STATUTE 985

Purpose of Juvenile Justice

- ▶ Rehabilitation
- ▶ 985.02(3)(d) – Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.
- ▶ Must balance need for rehabilitation with need for public safety.
- ▶ Develop effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family, to keep children in their homes and communities.

Key Players

- ▶ Judge - All trials in Juvenile are bench trials (Adjudicatory Hearings). They are presided over by the Judge who acts as the ultimate finder of fact.
- ▶ JA – Judge’s judicial assistant can provide court dates, point of contact for communications to/from the Judge.
- ▶ DJJ – Each courtroom has a representative from the Department of Juvenile Justice.
 - ▶ Represent the position of DJJ in court on matters of probation compliance, detention status and sentencing recommendations.
 - ▶ Point of contact to find out who is the assigned JPO
 - ▶ ASA – Prosecute the case against the Child.
- ▶ Bailiffs – monitors who comes in and out of the courtroom.
- ▶ Clerk – controls the court’s calendar, provides court dates, sends notice to clients, takes plea forms.
- ▶ Court case manager (Division M – Crossover Division, Options Court)


Rules of Procedure

- ▶ Rules of Juvenile Procedure
- ▶ 8.000 – 8.992
- ▶ Application of Florida Rules of Criminal Procedure to juvenile criminal cases in the absence of a juvenile rule was proper. *State v. M.C.*, 666 So. 2d 877 (Fla 1995).
- ▶ Detention Hearing within 24 hours after being taken into custody, Rule 8.010.
- ▶ If a Petition is filed and a child is being detained, whether secure, nonsecure, or home detention, the child shall be arraigned within 48 hours of the filing of the Petition. Rule 8.015
 - ▶ Motion to Suppress - 8.085(3)
 - ▶ Motion to Dismiss (Sworn) – 8.085(6)

Juvenile Divisions

Admin Order S-2015-021

- ▶ There are 2.5 Delinquency Divisions and 1 Cross-Over Division
- ▶ Division A
 - ▶ Last name beginning with: A, E, P, Q, R, S, T, U, V, W, X, Y, Z
- ▶ Division F
 - ▶ Last name beginning with: D, F, G, H, I, J, K, L, M, N, O
- ▶ Division M
 - ▶ Last name beginning with: B, C
 - ▶ Cross-over children (children with both open delinquency and dependency cases)
 - ▶ Sex-Related Offenses
 - ▶ Options Court
- ▶ Division B
 - ▶ Incompetent to Proceed Cases
 - ▶ Mental Health cases sent by agreement of PD and SAO for resolution with a case resolution contract (CRC).



Special Considerations for Representing Juveniles COLLATERAL CONSEQUENCES

Collateral Consequences

- ▶ An Adjudication of Delinquency is not a criminal conviction but is often treated like one. Fla. Stat. 985.35(6) and will be included on any future adult scoresheet.
- ▶ Many employment applications require disclosure of past convictions which do not include adjudications of delinquency, however depending on the wording in the application, the child might have to disclose the prior.
 - ▶ There are ways for employers to discover this information such as the FDLE web site.
- ▶ Juvenile court hearings are open to the public.
- ▶ Court Costs can total around \$365 for a felony case and \$265 for a misdemeanor case. This is on top of Cost of Supervision:
 - ▶ \$1 a day for home detention/probation
 - ▶ \$5 a day for secure detention/commitment
- ▶ The juvenile delinquency record triggers sentencing enhancements in both the state and federal criminal systems even when the child is an adult.

Collateral Consequences - Arrest

- ▶ Based on the arrest, prints and photographs were taken and sent to FDLE and the FBI.
 - ▶ This information could be sold by FDLE to employers, schools, housing companies, etc.
- ▶ When a child turns 18, their arrest record does not go away, nor is it personal and confidential unless it is sealed or expunged.
- ▶ DJJ may keep a child's information for up to 25 years.
- ▶ Getting arrested, depending on the offense, could subject a child to deportation if they are not a United State's citizen.
- ▶ Depending on the offense (typically for felonies), a child can be suspended from school or forced into a change of placement hearing. This can occur just based on arrest for a charge. Children are often moved to alternative schools.

Collateral Consequences – Adjudication of Delinquency

- ▶ If it is a felony or an echangeable misdemeanor case, the child is subject to giving a DNA sample and fingerprints.
- ▶ For certain offenses, a child could be forced to register as a sexual offender for the rest of their life (adjudicated delinquent under Fla. Stat. 794.011, 800.04).
- ▶ Children are also subject to Jimmy Ryce based on certain offenses.
- ▶ The child's driver's license (or their ability to obtain a license) might be suspended.
- ▶ Even with a withhold of adjudication on a felony, a child cannot lawfully possess a firearm until 24 years old.
- ▶ A child may not be able to live with or visit someone who lives in public or Section 8 housing. Public Housing authorities have the right to evict families of delinquent children even if the offense doesn't occur on property, HUD v. Rucker, 535 U.S. 125, 133-136 (2002).
- ▶ A child may not be eligible for food stamps.
- ▶ It can affect a child's ability to join the military or become a law enforcement officer. Felony adjudications or adjudications for any type of domestic violence offense can preclude enlisting.

In Custody Juvenile in the Courtroom

- ▶ Juvenile Rule of Procedure 8.100(b)
- ▶ **(b) Use of Restraints on the Child.**
- ▶ Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a child during a court proceeding and must be removed prior to the child's appearance before the court unless the court finds both that:
- ▶ (1) The use of restraints is necessary due to one of the following factors:
 - ▶ (A) Instruments of restraint are necessary to prevent physical harm to the child or another person;
 - ▶ (B) The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or
 - ▶ (C) There is a founded belief that the child presents a substantial risk of flight from the courtroom; **and**
- ▶ (2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.



Communication, Confidentiality, and Loyalty.

RULES OF PROFESSIONAL CONDUCT 4-1.2, 4-1.4

Communication

Rules of Professional Conduct 4-1.4

****Reasonable communication between the lawyer and the client is necessary for the client to effectively participate in the representation****

- (a) Informing Client of Status of Representation. A Lawyer Shall:
 - (1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules;
 - (2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) Keep the client reasonably informed about the status of the matter;
 - (4) Promptly comply with reasonable requests for information; and
 - (5) Consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (d) Duty to explain matters of client. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Confidentiality

- ▶ Only communications between you, the attorney, and the client are protected by Attorney-Client Privilege.
- ▶ There is no Parent-Child Privilege.
- ▶ Privileged information should not be discussed in front of a third party, including the Child's parent/guardian or else the Attorney-Client Privilege is waived.
- ▶ When conducting interviews, ask the parent/guardian to step out of the room when speaking with the child about substantive issues in the case.
- ▶ Do not give out information about your child or their case other than public record information.
- ▶ It can be helpful to explain to parents that you are protecting privilege because you would never want them to have to be a witness against their child.

Loyalty

Rules of Professional Conduct 4-1.2

Objectives and Scope of Representation

- (a) Lawyer to abide by Client's decisions: a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by 4-1.4, shall reasonably consult with the client as to the means by which the are to be pursued.

Your loyalty is to the child, not to the child's parents, guardians, DJJ, Court, Judge, JPO, or because it is convenient.

Other parties are governed by the best interest of the child, that is not our role.



Mental Health and Competency

FLA. STAT. 985.19

FLA.R.JUV.P. 8.095

Mental Health and Competency

- ▶ Competency will be raised in the original division in which the juvenile's case(s) is currently pending. There are three basis for raising competency – mental illness, age and immaturity and intellectual disability. State the basis on the record.
- ▶ Competency can be raised at any point in a case and once it is raised, speedy trial is tolled.
- ▶ Note that intellectual disability is contingent on a low IQ or and/or low adaptive functioning. In order to raise on this basis there should be some demonstrated evidence of these deficits, typically in school records.
- ▶ The AAL can assist by obtaining school records as well as for any treatment providers to support their concerns and share with the evaluator.
- ▶ Fla. Stat. 985.19(1)(b) – Evaluation of a child's mental condition shall be made by not less than two nor more than three experts appointed by the Court. The basis for incompetency must be stated in the evaluation.
- ▶ Additionally, a recommendation as to whether residential or nonresidential treatment is required must be included in the evaluation.

Findings of the Doctors

- ▶ Once the order is signed, evaluations will be scheduled by the Doctors the first week of the following month. On the day the evaluation is conducted, the expert will complete a written competency evaluation checklist. The information provided in the checklist will comply with §985.19(b) as it will provide findings of facts based upon the evaluation of the juvenile. Thereafter, the expert will provide the final report.
- ▶ If the juvenile is found competent to proceed, the juvenile will remain in his or her assigned division.
- ▶ If the experts' preliminary evaluations determine that the juvenile is incompetent to proceed, Defense and State agree the Case will be transferred to Juvenile Division B and a finding of incompetency and an Order finding as such will be made in Division B. The date of the placement hearing will be the next available Juvenile Mental Health Court docket. Pursuant to §985.19(c), once the written evaluations are received, a placement hearing will be conducted to determine the least restrictive treatment and placement alternative that is consistent with public safety. The hearing may be set off to a later date if the Court finds it necessary for either party to prepare.
- ▶ If a third "tie-breaker" evaluation is ordered, the juvenile evaluation and next court date will be reset to the following month pursuant to the schedule.

Special Circumstance Clients

- ▶ If at any time the Defense and State agree, with approval by the Court, that although the juvenile is **competent to proceed** but that the juvenile's behavioral or mental health issues may be more appropriately addressed in Juvenile Mental Health Delinquency Division "B", the case may be transferred in accordance with AO2018-064. The Defense Attorney will be responsible for drafting the appropriate transfer order.
- ▶ Court shall retain jurisdiction of the child for up to 2 years after the date of the order of incompetency, with reviews every 6 months.
- ▶ If after 2 years, the child has not attained competency and there is no evidence that the child will attain competency within a year, the court must dismiss the delinquency petition.
- ▶ If a child intends to plead insanity as a defense, the child shall advise the court in writing no less than 10 days before the adjudicatory hearing and shall provide a statement of particulars showing the nature of the insanity and the names of witnesses expected to prove it. Rule 8.095(b).
- ▶ The Court may on its own motion or motion of the State, appoint no more than 3, nor fewer than 2 disinterested experts to examine the child as to competency or sanity at the time of the offense.

Case Resolution Contracts

- ▶ CRCs are a diversion option available in competency cases where no formal finding of incompetence has been found or a child has been found incompetent, but no training has been ordered.
- ▶ The child enters an agreement with the State to complete sanctions such as community service, counseling, payment of restitution, and writing letters of apology.
 - ▶ The Child does not have to enter a plea.
 - ▶ Successful completion will result in the case getting dismissed.
- ▶ When a child enters a CRC, the attorney will create an A-CRC work request in STAC including all contact information, plan requirements, and disposition notes.

Detention Hearings

FLORIDA STATUTES: 985.24; 985.25; 985.255; 985.26;
AND FLA.R.JUV.P. 8.010

Detention Hearings

Florida Statutes: 985.24; 985.25; 985.255; 985.26; and Fla.R.Juv.P. 8.010

- ▶ Each division covers detention hearings on a rotating, weekly basis.
- ▶ Children who are arrested must be brought before the Court within 24 hours of their arrest for a detention hearing.
- ▶ At the hearing, the Court will determine if the child is to be released or detained and if the child is to be detained, what level they will be detained at.
- ▶ Placing a child in detention is entirely statutory in nature, thus strict compliance with the detention statute is required. G.M. v. Florida Dept. of Juvenile Justice, 144 So.3d 687 (Fla 1st DCA 2014).
- ▶ You should look at both probable cause as well as scoring on the Risk Assessment Instrument. APD will also call the detention center to speak to children on the docket and advise them that they have representation, explain invocation of rights and explain likely detention status.

Detention Hearings – Length

Florida Statute: 985.26 (Changes in the law)

- ▶ A child may not be held in secure detention care for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.
- ▶ A child may be placed on supervised release detention care for any time period until an adjudicatory hearing is completed. However, if a child has served 60 days, the court must conduct a hearing within 15 days to determine the need for continued supervised release detention care.
- ▶ Upon good cause being shown that the nature of the charges requires additional time for the prosecution or defense of the case or that the totality of the circumstances warrants extension, the court may extend the length of secure detention for an additional 21 days if the child is charged with an offense which, if committed by an adult would be a capital, life, felony of the first degree or second degree, or third degree felony involving violence against an individual. The Court may continue to extend period of secure detention in increments of up to 21 days.
- ▶ Prolific juvenile offender – supervised release with an electronic monitor or in secure detention until disposition. (can be held 15 days after the entry of an order of adjudication).

Detention Hearings – Uses of Detention

When to Detain-

Finding that the youth:

Florida Statute: 985.24

- ▶ Presents a substantial risk of not appearing at a subsequent hearing.
- ▶ Substantial risk of inflicting bodily harm as evidenced by recent behavior; including recent possession of a firearm.
- ▶ Presents a history of committing a property offense prior to adjudication, disposition or placement;
- ▶ Committed contempt of court;
- ▶ Intentionally disrupting administration of court.
- ▶ Intentionally disobeyed a court order;
- ▶ Engages in punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court.
- ▶ Requests protection from imminent bodily harm (in writing).

When Not to Detain

- ▶ To allow a parent to avoid their legal responsibility;
- ▶ To permit more convenient administrative access to the youth;
- ▶ To facilitate further interrogation or investigation;
- ▶ Due to lack of more appropriate facilities;
- ▶ Due to lack of available DCF placement;
- ▶ Youth previously convicted as an adult. Once a youth goes through the adult system, they remain an adult.

Detention Hearings – Step by Step

- ▶ Review the detention packet for each child located on the “G” Drive or emailed from Bureau Chief
 - ▶ Each packet should have
 - ▶ DRAI – Detention Risk Assessment Instrument
 - ▶ CRA – Criminal Report Affidavit
 - ▶ DJJ History – Sets out each time the child has been presented to the department.
- ▶ The detention center staff will have the child sign an invocation of rights form.
- ▶ Speak to clients and parents, gather mitigation, alternative placement for DV cases, release of information if applicable.
- ▶ Make any legal arguments, such as PC arguments, Incorrect Scoring, Double Scored, Improperly scored on an underlying offense . . .
- ▶ The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law and the need for continued detention. 985.255 (3)(a).
- ▶ If the court orders a placement more restrictive than indicated by the results of the risk assessment, the court shall state, in writing, clear and convincing reasons for such placement. Fla. Stat. 985.255(3)(b).

DRAI

- ▶ DRAI = Detention Risk Assessment Instrument
- ▶ This basic tool used in the risk screening process for the Department of Juvenile Justice is prepared at the Juvenile Assessment Center at the time of the child's arrest.
- ▶ Standardized tool for determining whether detention care is warranted.
- ▶ A completed DRAI is required for all juveniles who meet detention criteria.
- ▶ New screening tool effective July 1, 2019.
- ▶ Points are given for things like nature of the presenting charge, prior history, if child is currently on probation or committed, prior absconds, age, prolific juvenile offender, etc.

Detention Hearings - Types

- ▶ 2 Types of Detention in Florida
- ▶ Secure Detention
 - ▶ > 13 points on the Risk Assessment Instrument
 - ▶ Child is held at W.T. Edwards, a secure lock down facility
- ▶ Home Detention/Supervised Release
 - ▶ Scores between 7 and 12 points on the Risk Assessment Instrument
 - ▶ Child is released to his home.
 - ▶ Child remains within the confines of his home unless he is at school or with his parents.
 - ▶ Taking out the trash, walking the dog, or going into the front yard can constitute a violation of Home Detention.
- ▶ Release
 - ▶ Scores < 6 points on the Risk Assessment Instrument
 - ▶ Child is released and not placed on any type of supervision

Post-July 2019 DRAI

SECTION II. RISK ASSESSMENT

Directions: Score only ONE factor for each category; Use applicable factor with the HIGHEST POINT VALUE.

1. Most Serious Presenting Offense	Pt. Value	Score
a. Capital, life or first-degree felony punishable by life (PBL)	20	
b. Violent first- or second-degree felony, or vehicular homicide	20	
c. Any offense involving use or possession of firearm	20	
d. Violent third-degree felony, Burglary of Dwelling F.S. 810.02 (3)(a) or F.S. 810.02(3)(b), or Five (or more) burglary offenses presented at once	10	
e. Non-violent first-, second-, third-degree felony or any misdemeanor	6	
f. Technical Violation or Municipal Ordinance	2	
2. Prior Referrals (All referrals screened prior to this one regardless of offense date must be counted. Each police report is its own referral. Do NOT consider individual counts) *Dismissed, Non-file, and Nolle Prosequi referrals will NOT be counted. *Civil citations or equivalent pre-arrest programs will NOT be counted.	Pt. Value	Score
a. Three or more prior felony or misdemeanor referrals	3	
b. Two prior felony or misdemeanor referrals	2	
c. One prior felony or misdemeanor referral	0	
d. Current offense is first offense (No prior referrals)	-1	
3. Delinquent History (*Dismissed, Withdrawn, Non-file, and Nolle Prosequi referrals will NOT be counted.)	Pt. Value	Score
a. Prior abscond or escape (*Presenting abscond must be counted)	4	
b. History of law violations prior to court hearings <i>**Definition: A felony or misdemeanor offense was committed between the referral and disposition dates of a previous new law or violation referral. Both the primary and secondary referrals must have a disposition and not have been dismissed, non-filed, or nolle prosequi.</i>	4	
c. Two or more prior failures to appear (FTAs) (Offense Date Based)	3	
d. History of Violations (Presenting technical or any type open/historical violations of any supervision type must be counted)	2	
e. No history of escape, abscond, law violation pending court, violations, or FTAs (as defined in a-d)	-1	
4. Current Legal Status (At the time of screening)	Pt. Value	Score
a. Currently committed or conditional release	4	
b. Current detention status/currently on supervised release	3	
c. Currently on probation or post-commitment probation for 90 days or less	3	
d. Currently on probation or post-commitment probation for more than 90 days	2	
e. No current involvement (as defined in a-d)	-1	
5. Current Age (At the time screening)	Pt. Value	Score
a. Age 12 or younger	0	
b. Age 13, 14, 15 or 16	1	
c. Age 17 or older	0	
TOTAL SCORE (sum of Items 1-5)		

Scale: 6 or less = Release 7 to 12 = Supervised Release 13 or more = Detain

Violent Offenses

- ▶ Follow the language in the Forceable Felony Statute

VIOLENT OFFENSE LIST

*Violent = actual or threat of physical harm to a person where there was a reasonable probability of physical harm

Statute Number	Sub-Section	Level	Degree	PCIC Code - Violent	Description
316.027	2a	F	T	CRASH INVOLVING PERSONAL INJURY	FAIL TO STOP OR REMAIN AT CRASH INVOLVING INJURY
316.027	2c	F	S	HIT AND RUN	FAIL TO STOP REMAIN AT CRASH INVOLVING SERIOUS BODILY INJURY
316.027	2c	F	F	HIT AND RUN	FAIL TO STOP REMAIN AT CRASH INVOLVING DEATH
316.192	3c2	F	T	VIOLATE ARRIVAL TESTS DRIVING	VIOLATE DRIVING, CAUSE SERIOUS BODILY INJURY
316.193	3c3a	F	S	VEHICULAR FOMICIDE-NEGLIGENT MANSLAUGHTER	DUI, CAUSE DEATH TO HUMAN OR UNBORN CHILD
316.193	3c3b	F	F	VEHICULAR FOMICIDE-NEGLIGENT MANSLAUGHTER	DUI, CAUSE DEATH, FAIL TO GIVE INFORMATION OR RENDER AID
316.193b	3c	F	F	FLEE/ELUDE POLICE	WANTED DISREGARD SAFETY TO PERSONS OR PROPERTY, CAUSE SERIOUS BODILY INJURY OR DEATH
316.193b	4b	F	F	FLEE/ELUDE	AGG FLEEING W/ SERIOUS INJURY OR DEATH
327.36	3c2	F	I	DUI - UNLAW BLOOD ALCOHOL	BOATING UNDER THE INFLUENCE (BUI) AND CAUSE SERIOUS BODILY INJURY
327.36	3c3a	F	S	DUI - UNLAW BLOOD ALCOHOL	BOATING UNDER THE INFLUENCE (BUI) AND CAUSE DEATH
384.24	2	F	T	SEXUALLY TRANSMISSABLE DISEASES-HIV	HIV INFECTED PERSON HAS SEX WITHOUT INFORMING PARTNER
384.24	2	F	F	SEXUALLY TRANSMISSABLE DISEASES-HIV	HIV INFECTED PERSON HAS SEX WITHOUT INFORMING PARTNER, SUBSEQUENT OFFENSE
602.455		F	I	BEVERAGE LAW - TAMPERING	PLACE ANY SUBSTANCE IN LIQUOR THAT IS POISONOUS OR INJURIOUS TO HEALTH AND KNOWING SELL TO ANOTHER
775.027	5a	F	F	HOMICIDE	CAUSE DEATH TO UNBORN CHILD
775.027	5a	F	S	BATTERY	CAUSE BODILY INJURY TO UNBORN CHILD
775.067	1a	F	L	AGGRAVATED BATTERY - DURING FELONY	PERSON CHARGED WITH A FELONY DURING THE COMMISSION OF SUCH FELONY COMMITTS AGGRAVATED BATTERY. FELONY RECLASSIFIED FROM BASE TO THE NEXT DEGREE
775.067	1b	F	F	AGGRAVATED BATTERY - DURING FELONY	PERSON CHARGED WITH A FELONY DURING THE COMMISSION OF SUCH FELONY COMMITTS AGGRAVATED BATTERY. FELONY RECLASSIFIED FROM BASE TO THE NEXT DEGREE
775.067	1c	F	S	AGGRAVATED BATTERY - DURING FELONY	PERSON CHARGED WITH A FELONY DURING THE COMMISSION OF SUCH FELONY COMMITTS AGGRAVATED BATTERY. FELONY RECLASSIFIED FROM BASE TO THE NEXT DEGREE
775.0577	--	F	--	HIV-CRIMINAL TRANSMISSION OF	OFFENDER WHO TEST POSITIVE FOR HIV COMMITTS SECOND OFFENSE AS DEFINED IN STATUTE 775.0577 (1)(b)(ii)

Effect of total score

- ▶ 0 - 6 points
 - ▶ Straight Release
- ▶ 7 - 12 points
 - ▶ Supervised Release
- ▶ 13+ Points
 - ▶ Secure Detention

Supervised Release

Home Detention

- ▶ Youth are released to a parent, guardian, or responsible adult with supervision guidelines that include restrictions on the youth's whereabouts.
- ▶ Ideal Population:
 - ▶ Youth who score 7-8 points on the DRAI
- ▶ Client Contact Frequency:
 - ▶ First 21 Days: One face to face contact per week, including one weekend contact within the 21-day period.
- ▶ Special Considerations:
 - ▶ Youth that score 9 points on the DRAI may be supervised on this status if an ERC/DRC is not available/accessible.

Other Types of Supervised Release

Reporting Center

- ▶ Highly structured programming at a community center which includes, but is not limited to, skill building exercises, homework assistance, vocational classes, tutoring, and family engagement programs.
- ▶ Ideal Population:
 - ▶ Youth who score 9-10 points on the DRAI.
- ▶ Special Considerations:
 - ▶ Program Availability
 - ▶ Location of Center
 - ▶ Transportation to and from the center
 - ▶ Youth with work obligations
 - ▶ Youth that are not in school

Reporting Center

- ▶ The Reporting Center is a new and innovative option intended to benefit children being ordered to home detention at a detention hearing. The ERC is an add on to a child's home detention status.
- ▶ The RC's two main goals are to have the children avoid picking up new charges and to not FTA while their case is pending.
- ▶ This is accomplished by engaging the kids in beneficial and supervised activities. Children report after school hours. They do school-work, receive snacks, play outside, get life training, and receive mentors to work with them.
- ▶ They also help children do some of the things that they know will be needed for either a diversion program or probation – for example, apology letters and community service hours.
- ▶ Available for boys only, ages 11-17
- ▶ Appropriate by default for those boys who score 9-10
- ▶ Boys who score higher can be assigned to the RC. This would originate by a call from Freddy Barton who runs the program. This info would be forwarded to the attorney on duty by Mr. Watson along with the detention packets.
- ▶ The RC is located at Kings Forest Park (next to the fairgrounds).
- ▶ It provides services from 3:00-7:30, Monday through Thursday.
- ▶ The RC staff will pick up and transport the children for families that have transportation issues.
- ▶ The children ordered to participate in the RC must understand it is not optional and any failure to attend can result in a violation of their home detention.

Other Types of Supervised Release, cont.

Intensive Home Detention

- ▶ Youth are released to a parent, guardian, or responsible adult with supervision guidelines that include restrictions on the youth's whereabouts.
- ▶ Ideal Population:
 - ▶ Youth who score 11 points on the DRAI.
- ▶ Special Considerations:
 - ▶ Minimum of 5 face-to-face contacts with the youth each week during the initial 21 days.
 - ▶ Youth that score 10 may be supervised on this status if an ERC/DRC is not available/accessible.

Supervised Release, cont.

Intensive Home Detention with an Electronic Monitor

- ▶ Youth are released to a parent, guardian, or responsible adult with supervision guidelines that include restrictions on the youth's whereabouts and the use of electronic monitoring tracking equipment.
- ▶ Ideal Population:
 - ▶ Youth who score 12 or more on the DRAI.
- ▶ Client Contact Frequency:
 - ▶ First 21 days: Three face-to-face contact per week, includes at least two weekend contacts within the first 21 days. In addition to constant communication with the EM vendor regarding EM alerts and constant electronic tracking.
- ▶ Special Considerations:
 - ▶ EM Availability
 - ▶ EM Provider capabilities/service type
 - ▶ Youth <13 years old
 - ▶ Previous EM cut straps, equipment tampering, etc.

Secure Detention

- ▶ Secure Detention
- ▶ WT Edwards
- ▶ Secure Lock-Down Facility
- ▶ Limited options for contact with family
- ▶ Attend “school” in the facility.

DRAI – Mitigation and Aggravation

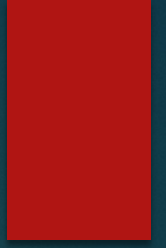
Mitigation

- ▶ Significant change in living conditions after the offense providing increased stability.
- ▶ Youth was coerced
- ▶ Youth suffers from an intellectual impairment which affects decision making
- ▶ Offense was committed in a spontaneous and impulsive manner
- ▶ Charge is more serious than the facts indicate
- ▶ Victim suffered little or no injuries
- ▶ Youth was a passive participant.
- ▶ Youth's age (<7) or maturity is not appropriate for secure placement
- ▶ Youth was accompanied by an unrelated adult who influenced the child

Aggravation

- ▶ Well-planned or premeditated offense.
- ▶ Attitude shows a clear and present danger to the victim or potential witnesses.
- ▶ Victim suffered substantial injury
- ▶ History of absconding
- ▶ Involved extreme cruelty
- ▶ Organized gang activity was involved
- ▶ A threat of retaliation or bodily harm towards the victim
- ▶ Child said they wouldn't appear in court
- ▶ Child has extremely unusual number of prior offenses
- ▶ Weapon was used and not included in the presenting offense
- ▶ Numerous other offenses were attaches to the presenting offense

Pre-File Diversion Programs



Pre-File Diversion Programs

Juvenile Arrest Avoidance Program (JAAP)

- ▶ Run by Court Admin as an alternative for youth 8-17 who have no prior adjudications, withholds or diversions.
- ▶ The officer does not arrest the child, but instead provides a civil citation with contact information for the diversion program.
- ▶ Includes all misdemeanors after 2021 expansion.
- ▶ Officers SHALL issue civil citations unless have supervisor approval and extraordinary circumstances necessitate arrest and are documented in the CRA.
- ▶ Child must accept responsibility for the offense and agree to participate in the program.
- ▶ Acceptance of the program is a waiver of speedy trial.
- ▶ The child completes sanctions such as letters of apology, community service, restitution, and if complete, there is no arrest on the child's record.
- ▶ If the child fails out of the program, the charges are sent to the SAO for prosecution.

Pre-File Diversion Programs

Juvenile Arbitration (Subset of JAAP/civil citation program)

- ▶ Meeting between the child, parent and the victim with a Juvenile Diversion Program Case Manager to discuss the offense and form a contract to set out a series of sanctions the child needs to complete to avoid formal prosecution.
- ▶ First time misdemeanor and felony offenders 7-17 y.o.
- ▶ Can be referred by the JAC, SAO or court.
- ▶ Sanctions can include community service, restitution, counseling, substance abuse treatment, letters of apology, Teen Court, essays, etc.
- ▶ If the child completes the program, the case is dismissed.
- ▶ If the child fails out, the case is sent to the SAO for formal prosecution.

Pre-File Diversion Programs

Teen Court

- ▶ Part of the Juvenile Diversion Program and as an alternative to an adjudication in juvenile court for first time offenders ages 13-18.
- ▶ Child's case is heard by other teens and a disposition is recommended by a jury of teens.
- ▶ After the sanctions are handed down, the child and their parent agree to complete the sanctions.
- ▶ If the sanctions are completed, the case is dismissed.

Arraignments

FLA.R.JUV.P. 8.070, 8.015

Arraignment - General

- ▶ Occurs 2-3 weeks after detention hearing.
- ▶ Child is noticed to appear (either via Zoom or in person depending on the court's preference). Presence can be waived in some circumstances, consult with Division Chief for division-specific practices.
- ▶ If petition is filed and no private counsel has been retained, the Court appoints public defender's office.
- ▶ Child enters a formal plea to the charge(s).
- ▶ Ask for adjudicatory hearing date within speedy trial.
- ▶ If a Petition is filed and the child is being detained, whether secure, nonsecure, or home detention, the child shall be given a copy of the Petition and shall be arraigned within 48 hours of the filing of the Petition.
- ▶ No child shall be called on to plead unless and until he or she has had a reasonable time within which to deliberate thereon.

Plea Form

Florida Rules of Juvenile Procedure 8.080

- ▶ Court must make a finding that the plea is knowingly and voluntarily entered.
- ▶ Court must find a factual basis for the plea.
- ▶ Court must place the child under oath.
- ▶ When filling out the plea form, put the charges the Child is entering a plea to in the top section (including new statute numbers).
- ▶ Enter the specific plea agreement in 2(a) including if the State is reducing or dropping charges.
- ▶ A separate plea form is needed for each case number.
- ▶ Plea forms are required for Walker Plans.
- ▶ A parent or guardian must sign the plea form. In the absence of such an adult an attorney ad litem will sign the plea form as a “guardian” and should always ensure the child understands the charges, the plea and all consequences of the plea. Additionally, make sure that as the AAL you understand and are informed of the charges and the factual basis for the charges.

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
JUVENILE DIVISION

IN THE INTEREST OF: UCN NO: <CASE_NUMBER>
<CHILD'S_NAME> DIVISION: <DIVISION>
(A CHILD)

PLEA AGREEMENT, ACKNOWLEDGMENT AND WAIVER OF RIGHTS

By signing below, _____ the Child (age) _____ and
_____ Parent/Guardian, acknowledge that they have read this form, understand its
contents and agree to its terms.

CHARGE(S)	MAXIMUM PENALTY
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

____ 1(a) I am pleading Guilty, and acknowledge (my guilt/I feel it is in my best interest to do so); OR
____ 1(b) I am pleading No Contest, and acknowledge I feel it is in my best interest to do so; OR
____ 1(c) I am pleading No Contest and reserving the following issues for appeal: _____ AND _____

____ 2(a) I am pleading Open to the Court and understand there is no agreement as to what sentence I will receive, and the Court can sentence me within its discretion; OR
____ 2(b) I am pleading pursuant to a Plea Agreement and the terms of that agreement are as follows: _____

____ 3 I thoroughly understand the charge(s) to which I am pleading _____

____ 4 I understand that the charge(s) is/are serious, and that if the Child is treated as an adult, it would carry a maximum sentence of _____

____ 5 I understand that by entering this plea I am giving up the right to plead not guilty, have a trial called an adjudicatory hearing before the judge to determine guilt or innocence, be represented by an attorney at trial, and/or subpoena any witnesses to that trial on my behalf and be a witness myself.

____ 6 I (am/are not) waiving my right to have the Court order a predisposition report prior to the imposition of my sentence. This report would contain an assessment of my needs, and a recommendation of the suitability or nonsuitability for adjudication and commitment to the Department of Juvenile Justice.

Post-File Diversion Programs

Post-File Diversion Programs

- ▶ Walker Plan
- ▶ 1st time misdemeanor and most felony offenses.
 - ▶ Must enter a plea in abeyance.
 - ▶ Sanctions are tailored to the child's charge and circumstance.
 - ▶ 9-12 months to complete the program.
 - ▶ If fail the program, the plea in abeyance goes into affect.
 - ▶ Important to consider whether child can complete the requested sanctions.
 - ▶ APD and AAL monitor and follow up on the Plan, AAL assist and ensure child is completing walker plan tasks/conditions.
 - ▶ Most Judges will set periodic status dates to report on progress.

Preparing for Trial

FLA.R.JUV.P. 8.110

Discovery

- ▶ Receive Police Report at Arraignment
- ▶ AO S-2010-012 – Blanket Discovery
 - ▶ The Office of the State Attorney will have five days after arraignment to provide a formal Answer to Discovery, pursuant to Rule 8.060(a)(2), Florida Rules of Juvenile Procedure.
 - ▶ Notice of Discovery must include a list of the names and addresses of all persons known to have information which may be relevant to the allegations, any written or recorded statements and the substance of any oral statements, any tangible papers or objects obtained from the child, whether there has been any electronic surveillance, whether there has been any search or seizure and any documents relating thereto, reports or statements of experts, any tangible papers or objects that the State intends to use in a hearing, and any material information within the state's possession or control which tends to negate the guilt of the child. (Brady Information).

Miranda Considerations with Juveniles

- ▶ When dealing with Juvenile confessions, the State must not only comply with Miranda, but they must also comply with the standards set out by Ramirez v. State, 739 So.2d 568 (Fla. 1999).
- ▶ In Ramirez, the Florida Supreme Court adopted criteria to determine the voluntariness of a waiver of Miranda:
 - ▶ The manner in which the Miranda warnings are administered, including whether there was cajoling or trickery;
 - ▶ The suspects age, experience, intelligence, and background;
 - ▶ Whether the suspect's parents were contacted and whether the juvenile was given an opportunity to consult with his parents before questioning;
 - ▶ The location of the questioning; and
 - ▶ Whether the interrogators obtained a written waiver of the Miranda rights at the outset.
- ▶ Ramirez implicitly implies that juveniles are more vulnerable in the custodial interrogation setting than their adult counterparts.


Adjudicatory Hearings

Adjudicatory Hearings

- ▶ Trials in Juvenile are referred to as Adjudicatory Hearings = Non-Jury/Bench Trials.
- ▶ Judge acts as the ultimate finder of fact.
- ▶ All rules of evidence apply.
- ▶ State must establish guilt beyond a reasonable doubt.
- ▶ A child offering no testimony in his or her own behalf except his or her own shall be entitled to the concluding argument – Rules of Juvenile Procedure 8.110(d)
- ▶ Follows the same steps as in adult:
 - ▶ Invoke the Rule
 - ▶ Opening
 - ▶ State's Case in Chief
 - ▶ JOD – In light most favorable to the State. Argue state did not prove specific elements, use pre-printed case law.
 - ▶ Defense Case – If client not testifying Judge will do colloquy.
 - ▶ Rebuttal
 - ▶ Renew All Previous Motions/Objections (2nd JOD)
 - ▶ Closing – Beyond a reasonable doubt. Argue facts, use jury instruction re: credibility, lack of evidence, conflicts in evidence.
 - ▶ Ensure that all objections are made timely, contemporaneously, and stating the legal ground for the objection to preserve the issue for appeal.

Common Issues with Evidence and Admission

- ▶ Photos/videos – did the witness take the photo or can they testify that it is a “fair and accurate” representation of what is depicted.
- ▶ Surveillance video – can a witness testify as to how video was captured, how system is maintained? Is it accurate as far as time/date stamp, etc.
- ▶ If ASA seeks to admit they should have shown to witness ahead of trial and had them initial. They should show APD as well.
- ▶ If APD has not been provided the item – discovery issue. *Richardson* hearing.
- ▶ Consider whether items should be redacted or excluded. Can be addressed pre-trial through motion.
- ▶ Witnesses can’t narrate contents of video or make ID from photo or video unless have special relationship or ability.
- ▶ As an AAL, you will be present and attend the adjudicatory hearing with the child. You may provide feedback, counsel and advice to the child.



Legal Obligations of Attorney ad Litem and APDs

Can the court remove a client from their trial?

- ▶ Florida Rules of Criminal Procedure 3.180(c)
 - ▶ A trial judge may remove a disruptive defendant from court without the trial or return of the verdict being postponed or delayed.
 - ▶ The rule states, “[] the trial, the submission of the case to the jury for verdict, and the return of the verdict thereon shall proceed in all respects as though the defendant were present in court at all times.”

Court's Obligation

- ▶ Any rule or procedure set by the judge must ensure the defendant's rights are being considered and that they are being afforded a fair trial.
- ▶ According to Justice Brennan, the court should make reasonable efforts to enable the client to communicate with their attorney and if possible, to keep apprised of the progress. *Illinois v. Allen*, 397 U.S. 337, 351 (1970)
 - ▶ Court should mitigate the disadvantages of the expulsion as far as technologically possible in the circumstances. *Illinois v. Allen*, 397 U.S. 337, 351 (1970)
- ▶ American Bar Association, Standards for Criminal Justice: Special Functions of the Trial Judge 6-3.8:
 - ▶ A removed defendant who does not hear the proceedings should be given the opportunity to learn of the proceedings from defense counsel at reasonable intervals.

Attorney's Obligation

- ▶ Florida Rules of Professional Conduct 4-1.4
 - ▶ Imposes an ethical duty to (1) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (2) keep the client reasonably informed about the status of the matter; and (3) promptly comply with reasonable requests for information.
 - ▶ Rule 4-1.6 – A lawyer must not reveal information relating to representation of a client.
 - ▶ Rule 4-2.1 – A lawyer shall exercise independent professional judgment and render candid advice.
 - ▶ Rule 4-1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.



Disposition Of the Case

SENTENCING TYPICALLY HAPPENS IMMEDIATELY AFTER THE TRIAL, SO BE PREPARED WITH MITIGATION AND MAKE SURE CLIENT AND PARENT ARE PREPARED TO SPEAK.

Judicial Warning

- ▶ Children can receive a Judicial Warning which is a form of sentence that requires no further action by the child.
- ▶ A Judicial Warning is an admonishment by the Court appropriate on minor charges or cases with mitigation or lack of prior history.
- ▶ While there are no “sanctions” imposed on the Child, Judicial Warnings do still count as priors for purposes of the DRAI, enhancements, and an adult scoresheet.
- ▶ Most favorable sentencing option if child is found guilty.

Probation

- ▶ Child is placed under the supervision of the Department of Juvenile Justice.
- ▶ Sanctions are placed on the child which must be completed as terms of the probation:
 - ▶ Community service hours
 - ▶ Letters of apology, essays
 - ▶ Substance abuse evaluation and treatment
 - ▶ Curfew – this is a big deal because monitored by law enforcement and can be difficult on entire family.
 - ▶ School attendance and/or work
 - ▶ Therapy or substance abuse treatment
 - ▶ Maintain contact with probation officer
- ▶ Child can remain on probation with a withhold of adjudication until 19. Juvenile probation is not ordered for a set period of time.
- ▶ If adjudicated, limited to statutory maximum time for charge.
- ▶ Child can be placed on electronic monitor as term of probation.

Violations of Probation

- ▶ Violations of probation are initiated by an affidavit prepared by a juvenile probation officer and filed by the SAO. Rule 8.120.
- ▶ If the violation is based on a new charge, enter a denial and set the VOP case along with the trial date on the new case.
- ▶ If technical violations only (school, curfew, CSH, etc.) enter denial and set for VOP hearing.
- ▶ Communicate with client and JPO and determine what the issues are and see if a resolution can be arranged prior to the hearing.
- ▶ Child has an opportunity to be heard at a hearing. The court shall enter an order revoking, modifying, terminating, or continuing juvenile probation. If probation is revoked, the court shall adjudicate the child delinquent if the child's adjudication was withheld.

Violation of Probation Hearing

- ▶ Mini-trial where State must prove the violation.
- ▶ The Court can require a probationer to identify himself in a VOP hearing. They are also required to answer any questions regarding non-criminal conduct. (Address, School, location at a certain time, etc.)
- ▶ Hearsay is admissible but can't be the sole basis of the violation.
- ▶ The Court cannot revoke probation for conduct not alleged in the VOP affidavit.
- ▶ JPOs must often rely on hearsay information in the probation file. This file can qualify under the business records exception, make sure ASA meets requirements for the exception, including admitting the actual file or document.
- ▶ Violations must be willful and substantial.
- ▶ A party may move for rehearing after the court has entered an order ruling on a motion or order of adjudication.

Commitment to a Program

- ▶ Commitment to a program is the most severe sentence in the juvenile system.
- ▶ If a program is being considered, the Department must hold a Staffing and complete a comprehensive evaluation.
- ▶ A Predisposition Report, PDR, is generated from the staffing.
- ▶ Present at the Staffing
 - ▶ Child
 - ▶ Parent/Guardian/AAL
 - ▶ ASA
 - ▶ APD
 - ▶ DJJ/JPO
 - ▶ DJJ Commitment Manager
- ▶ Staffings are generally held at different DJJ facilities or over Zoom.

Staffing

- ▶ Before the Staffing
 - ▶ Review any documents, i.e. school, medical, and/or mental health records, DRAI.
 - ▶ Speak with the child to see how they are doing and if there has been a change in circumstance.
 - ▶ Speak with the APD on the case at time of trial if it was not you.
 - ▶ Speak to the JPO, what services have been attempted and what services remain an option in the community.
- ▶ At the Staffing
 - ▶ Advocate for the child! You can make a big difference at this stage.
 - ▶ Most times you will be battling not only JPO but also parents who are demanding the child be committed.
 - ▶ The child's wishes are paramount.
- ▶ PDR is created and DJJ makes a recommendation to the court.

Commitment

- ▶ *A trial judge may not deviate from the Department of Juvenile Justice's (DJJ) recommendation at a juvenile delinquency disposition hearing simply because the judge disagrees with the recommendation. In order to deviate, a trial court must identify adequate reasons, grounded in the evidence, for disregarding the recommendation. A judge may reweigh the same factors that the DJJ considered and come to a different conclusion. But, when the court does so, the court must set forth its reasons in the context of the needs of the child. The judge's findings must have reference to the characteristics of the restrictiveness level vis-a-vis the needs of the child. The judge must explain why the judge came to a different conclusion than the DJJ, and explain why the new restrictiveness level is indicated – N.P. v. State, 18 So. 3d 735 (Fla 2nd DCA 2009).*

Minimum Risk Non-Residential

- ▶ Work with the child in the community
- ▶ Child participates in the program at least 5 days a week in a day treatment program
- ▶ Represent a minimum risk to themselves or to public safety
- ▶ Have full access and reside in the community
- ▶ Children that have committed offense involving firearms, sexual offenses, life or 1st degree felonies do not qualify
- ▶ Court has jurisdiction until 21 years old

Non-Secure Residential Programs

- ▶ Name is a misnomer – programs are locked facilities.
- ▶ Child resides at the facility, may have some supervised access to the community (depending on the program).
- ▶ Even though they are called “nonsecure,” programs are secured either by the environment, staff, or hardware with fences, walls and locking doors.
- ▶ Provide 24-hour awake supervision, custody and care of the residents.
- ▶ Children in this program represent a moderate to low risk to public safety but require close supervision.
- ▶ Child may be secluded, included a mechanical restraint.
- ▶ The court maintains jurisdiction over the Child until the Child reaches 21 to allow the Child to complete the program, including any conditional release.
- ▶ Child will be held pending placement.
- ▶ Not all programs are the same.
- ▶ Different types of non-secure programs for different levels of offenders.
- ▶ There are 40 different non-secure residential programs across the state.

High-Risk Residential

- ▶ Residential, no access to the community.
- ▶ Hard-ware secure with perimeter fencing and locking doors.
- ▶ 24-hour awake supervision, custody, care and treatment of residents.
- ▶ The court maintains jurisdiction over the Child until the Child reaches 21 to allow the Child to complete the program, including any conditional release.
- ▶ Child will remain in secure until placement is available.
- ▶ Limited number of these programs in the State.
- ▶ Children typically stay approximately 12 months.

Maximum-Risk Residential

- ▶ Includes Juvenile Correctional Facilities and Juvenile Prisons. VERY rarely used in our jurisdiction.
- ▶ Long-term residential programs which do not allow youth to have access to the community.
- ▶ Maximum-custody hardware-secure with perimeter security fencing and locking doors.
- ▶ No more than 90 beds.
- ▶ 24-hour awake supervision, custody, care and treatment of residents.
- ▶ Provide for single cell occupancy, except the youth may be housed together during prerelease transition.
- ▶ Require close supervision in a maximum-security residential setting.

Secure Detention Pending Placement

985.27

- ▶ The court **MUST** place all children who are adjudicated and awaiting placement in a nonsecure, high-risk, or maximum-risk residential commitment program in secure detention care until the placement or commitment is accomplished.
- ▶ Fla. Stat. 985.26(5) – A child who was not in secure detention at the time of the adjudicatory hearing, but for whom residential commitment is anticipated or recommended, may be placed under a special detention order for a period not to exceed 72 hours, for the purpose of conducting a comprehensive evaluation for disposition. Such special detention order may be extended for an additional 72 hours upon further order of the court.



Alachua Academy

Females 12-18 in need of substance abuse. Youths receive daily psychotherapeutic services, including individual, family and group counseling, cognitive skills training, and relapse prevention training by qualified mental health and substance abuse professionals under the supervision of a licensed psychologist.

The length of stay depends on the youth's assessed risk to reoffend and the progress the youth makes in reducing criminogenic needs and risk factors, completing her individualized treatment plan, and increasing the protective factors in her life. The anticipated, average length of stay is between three and nine months, depending upon the youth's pace of success in the program.

Type 2 program. Offering English, Math, Science, Social Studies, and one elective course. The elective course is typically used to provide additional reading assistance to needy students or vocational training.



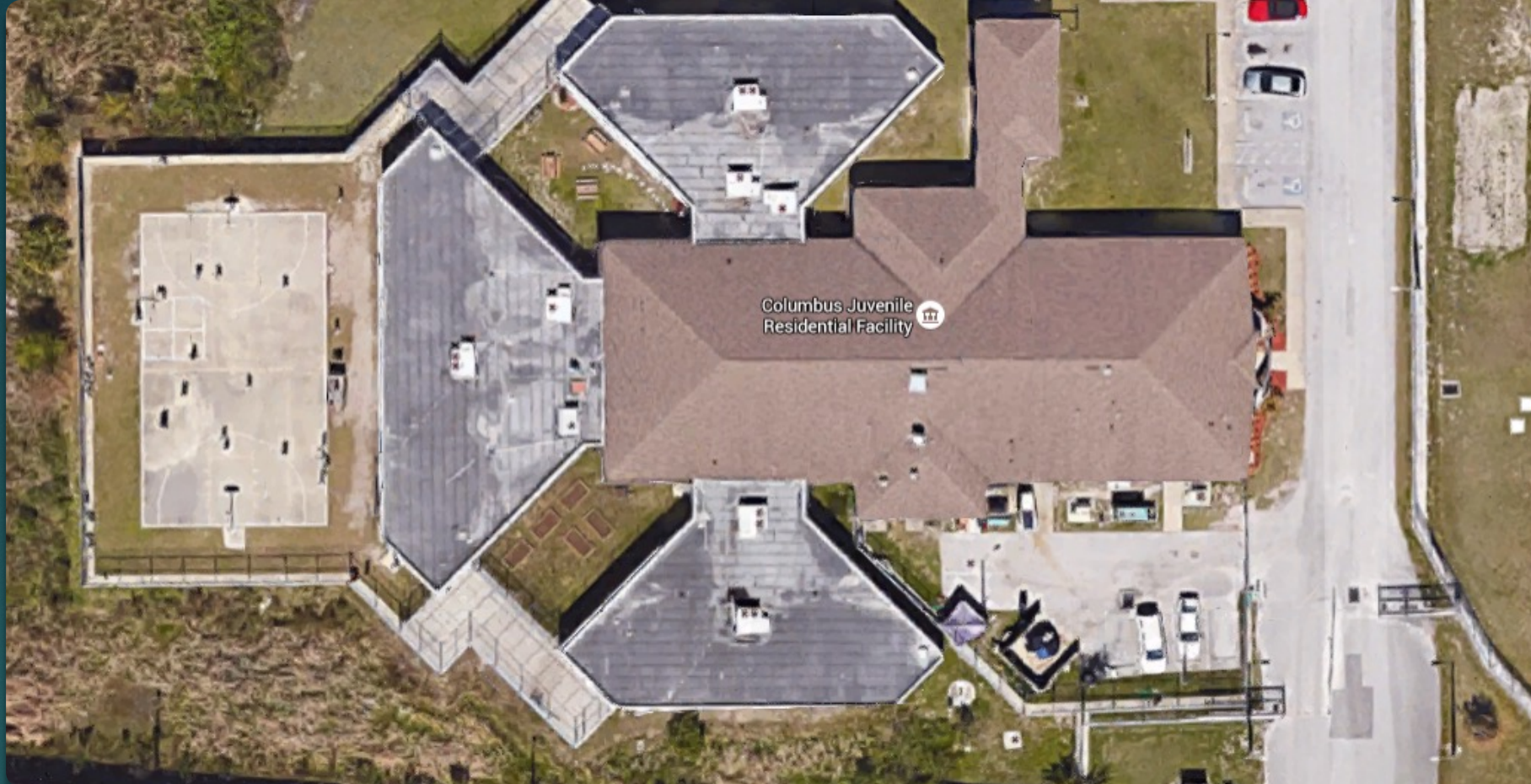
Bartow Youth Academy

Males 14 – 18. The program specializes in youth who are assessed as Borderline Developmentally Disabled (BDD) with a full scale IQ of 70 to 79, whose level of cognitive functional limitations make them unsuitable for a general offender program.

Services include mental health and substance abuse treatment including individual, family, and group counseling. The youth in the program receive daily (seven days a week) developmental and psychosocial treatment and interventions. Youth also receive medical and psychiatric services, behavior management, on-site education, vocational education, and specialized life-skills training.

The anticipated, average length of stay is between six and nine, depending on the youth's pace of success in completing his individualized treatment plan and goals.

Type 1 program.



Columbus Juvenile Residential Facility

Males 10-18 who have a documented need for sex offender treatment based upon a psychosexual assessment.

The primary therapeutic curriculum follows a specialized model called "STEPS of Progress," which incorporates the main treatment tasks identified by treatment providers as important when working with adolescent sexual offenders. Youth with developmental issues will be provided specific behavioral programming.

The program provides individual, family, and group therapy, in addition to case management services as well as in-home prevention services as youth progress toward program completion. Each youth admitted to the program will be evaluated by a psychiatrist for medication management with monthly follow-up evaluations thereafter.

The Columbus Juvenile Residential Facility is a Type 2 program offering English, Math, Science, Social Studies, and Reading. Career and technical opportunities include Culinary Arts.



Okaloosa Youth Academy

Views
h Organization

Directions

SAVE NEARBY SEND TO YOUR PHONE SHARE

4455 Straight Line Rd, Crestview, FL 32539

djj.state.fl.us

(850) 689-1984



Okaloosa Youth Academy

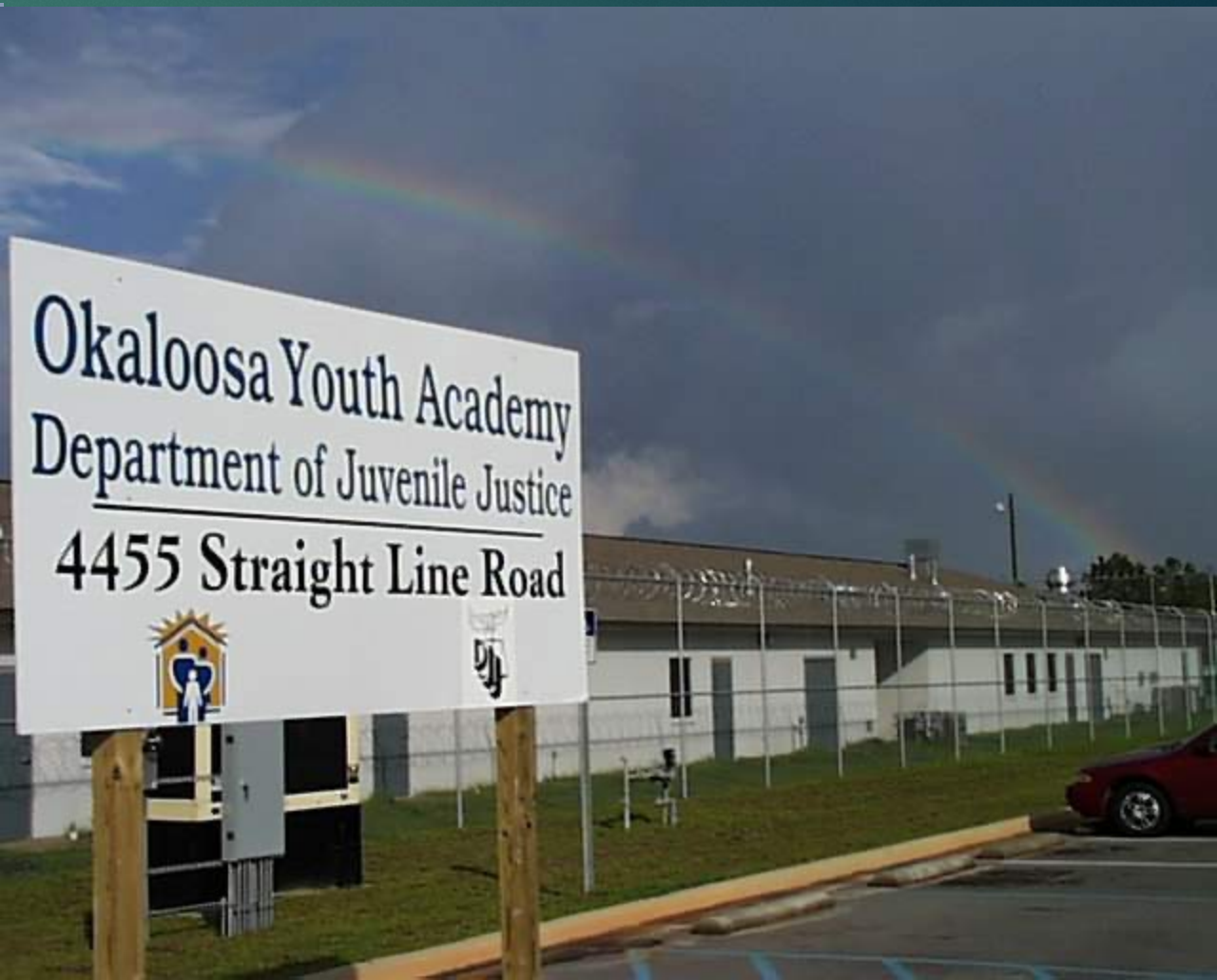
Males, ages 13 to 19 - Mental health and behavioral health treatment services are provided for the youth who have a need for outpatient-levels of mental health and substance abuse treatment services. This program is a Mental Health Overlay Services (MHOS) and a Substance Abuse Overlay Services (SAOS) program.

The Okaloosa Youth Academy is co-located on the same campus as the Crestview Sex Offender Program, which is a non-secure sex-offender treatment program for males, ages 13 to 19.

The anticipated, average length of stay is between three and nine months, depending on the youth's pace of success in completing his individualized treatment plan and goals.

Okaloosa Youth Academy is a Type 3 program offering English, Math, Science, Social Studies, and one elective course. The elective course is typically used to provide additional reading assistance to needy students or vocational training. Youth have the option of earning a GED® or high school diploma.

Okaloosa Youth Academy



Okaloosa Youth Academy



Okaloosa Youth Academy



Okaloosa Youth Academy



Mandatory Sanctions

- ▶ Certain offenses in Juvenile carry mandatory sanctions
- ▶ Most notably and frequently used on firearm cases. *Florida Statute 790.22*
- ▶ Minor in possession of a firearm = discretionary 3 days in detention and 100 CSH along with DL suspension up to a year.
- ▶ Offense committed with use/possession of a firearm = mandatory 15 days in detention, 100 CSH and DL suspension up to a year.
- ▶ Look for notice of State seeking these sanctions in the petition.
- ▶ DJJ also requires increased levels of supervision of children on probation for gun offenses.

Restitution

- ▶ Can be ordered if damaged was caused directly or indirectly by the child's offense or if damage or loss was a direct cause of the child's criminal episode.
- ▶ The State can only seek restitution for items which are stated in the arrest affidavit, or were established by facts stated during the plea hearing or in trial.
- ▶ The State must prove the damages bear a "significant relationship between the offense and the loss."
- ▶ The child is entitled to a restitution hearing when the value is in dispute.
- ▶ Restitution must be ordered within 60 days, the amount can be determined beyond that time if ordered and reserved as to the amount.
- ▶ Restitution must be proven by a preponderance of the evidence.
- ▶ Approximations of damage is insufficient, the State must prove specific dollar amounts.
- ▶ The standard of compensation is fair market value, not replacement cost.
- ▶ Hearsay cannot be used to determine the amount of restitution if the defense raises a bona fide challenge to the amount.

Contempt of Court

Contempt of Court/Order to Show Cause

Florida Statute 985.037

- ▶ Often used in Juvenile Court as an alternative to a Violation of Probation Hearing. Child can be sentenced to five days in detention per episode of contempt.
- ▶ Hearing must be held within 24 hours after Child receives notice of the Order to Show Cause.
- ▶ Child is afforded all the same rights as if they were in a trial.
- ▶ Court must consider “if alternative sanctions are unavailable or inappropriate.”
- ▶ Court is encouraged to order a child to perform community service where appropriate before ordering the child be placed in a secure facility as punishment for contempt of court.

Juvenile Prolific Offenders

- ▶ 985.255(1)(f)
- ▶ The child is a prolific juvenile offender. A child is a prolific juvenile offender if the child:
 - ▶ 1. Is charged with a delinquent act that would be a felony if committed by an adult;
 - ▶ 2. Has been adjudicated or had adjudication withheld for a felony offense, or delinquent act that would be a felony if committed by an adult, before the charge under subparagraph 1.; and
 - ▶ 3. In addition to meeting the requirements of subparagraphs 1. and 2., has 5 or more of any of the following, at least 3 of which must have been for felony offenses or delinquent acts that would have been felonies if committed by an adult:
 - ▶ a. An arrest event for which a disposition, as defined in s. 985.26, has not been entered;
 - ▶ b. An adjudication; or
 - ▶ c. An adjudication withheld.
- ▶ As used in this subparagraph, the term “arrest event” means an arrest or referral for one or more criminal offenses or delinquent acts arising out of the same episode, act, or transaction.

Prolific Offenders - Detention

- ▶ 985.26(2)(c)
- ▶ (c) A prolific juvenile offender under s. 985.255(1)(j) shall be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order until disposition. If secure detention care is ordered by the court, it must be authorized under this part and may not exceed:
 - ▶ 1. Twenty-one days unless an adjudicatory hearing for the case has been commenced in good faith by the court or the period is extended by the court pursuant to paragraph (b); or
 - ▶ 2. Fifteen days after the entry of an order of adjudication.
- ▶ (Courts still have to abide by the RAI Score)
- ▶ (d) A prolific juvenile offender who is taken into custody for a violation of the conditions of his or her supervised release detention must be held in secure detention until a detention hearing is held.

Prolific Offenders – AH's

- ▶ 985.35 (1)(b)
- ▶ If the child is a prolific juvenile offender under s. 985.255(1)(j), the adjudicatory hearing must be held within 45 days after the child is taken into custody unless a delay is requested by the child.



How Juvenile can affect adult

Scoresheet

Rule 3.992(a) Criminal Punishment Code Scoresheet
The Criminal Punishment Code Scoresheet Preparation Manual is available at: <http://www.dc.state.fl.us/punish/cpcw/index.html>

1. DATE OF SENTENCE	2. PREPARER'S NAME	3. COUNTY	4. SENTENCING JUDGE
5. NAME (LAST, FIRST, MI)	6. DOB	8. RACE <input type="checkbox"/> M <input type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE
	7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #

11. PLEA
 12. TRIAL

I. PRIMARY OFFENSE: If Qualifier, please check A B C R (A=Attempt, B=Sollicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS

(Level - Points: 1-4, 2-10, 3-16, 4-22, 5-28, 6-36, 7-56, 8-74, 9-92, 10-116)
 Prior capital felony strikes Primary Offense points I. _____

II. ADDITIONAL OFFENSE(S): Supplemental page attached

DOCKET#	FELMM DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
					<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		x	
					<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		x	
					<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		x	
					<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		x	

(Level - Points: M-0.2, 1-0.7, 2-1.2, 3-2.4, 4-3.6, 5-5.4, 6-18, 7-28, 8-37, 9-46, 10-56)
 Prior capital felony strikes Additional Offense points Supplemental page points II. _____

III. VICTIM INJURY:

	Number	Total		Number	Total
2nd Degree Murder	240 x		Slight	4 x	
Death	120 x		Sex Penetration	80 x	
Severe	40 x		Sex Contact	40 x	
Moderate	18 x				

III. _____

IV. PRIOR RECORD: Supplemental page attached

FELMM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		X		
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		X		
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(Level - Points: M-0.2, 1-0.5, 2-0.8, 3-1.6, 4-2.4, 5-3.6, 6-9, 7-14, 8-19, 9-23, 10-29)
 Supplemental page points IV. _____

IV. _____

Page 1 Subtotal: _____

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998 and subsequent revisions.

Scoresheet

- ▶ Juvenile priors appear on the adult scoresheet
- ▶ Only need 44 points to score mandatory prison time
- ▶ Juvenile priors can qualify for adult enhancements
- ▶ Doesn't matter if there was a withhold of adjudication or an adjudication of delinquency
- ▶ Common Juvenile Offenses and their Levels

Common Juvenile Offenses and their Levels

- ▶ Level 2
 - ▶ Grand Theft Third Degree
- ▶ Level 4
 - ▶ Battery on a LEO, Detention Staff, Spec. Official, or Person over 65
 - ▶ Possession of Firearm on School Property
 - ▶ Burglary of a Structure or Conveyance
 - ▶ GTMV
- ▶ Level 5
 - ▶ Carrying a Concealed Firearm
 - ▶ Robbery by Sudden Snatching
- ▶ Level 6
 - ▶ Robbery
- ▶ Level 7
 - ▶ Burglary of a Dwelling
- ▶ Level 9
 - ▶ Robbery Firearm

Direct File – Adult Felony Court

- ▶ If you are 14 or 15 years old, you can be direct filed for certain charges, ATTEMPTS to commit, or conspiracy to commit the charge.
- ▶ The State Attorney makes the decision to Direct File, not the judge.
- ▶ Fla. Stat. 985.557 – “when in the state attorney’s judgement and discretion the public interest requires that adult sanctions be considered or imposed.”
- ▶ Discretionary Charges (14 or 15 years of age):
 - ▶ Arson, Sexual Battery, Robbery, Kidnapping, Aggravated Child Abuse, Aggravated Assault, Aggravated Stalking, Murder, Manslaughter, Unlawful Discharge of Destructive Device, Armed Burglary, Burglary of a Dwelling with Assault or Battery, Aggravated Battery, Any Lewd or Lascivious offense of a person less than 16, Carrying or Using a Firearm during a felony, Grand theft Motor Vehicle (certain requirements), Carjacking, Home Invasion Robbery.
 - ▶ Age 16 or above – ANY FELONY CHARGE
 - ▶ Sanctions if convicted: Juvenile Sanctions; Adult Sanctions, including probation, youthful offender, prison.

Final Thoughts/Considerations

- ▶ Introduction and meeting clients – build rapport with the child and ask questions in an appropriate manner.
- ▶ Be respectful of the child's background, mental health status, victimization (physical, mental, emotional abuse).
- ▶ Always maintain confidentiality. As an AAL, you enjoy the benefit of the attorney-client privilege and should communicate effectively with the Child and APD.
- ▶ Review all background information, school records and court records, when possible or appointed for extended representation.
- ▶ Maintain contact with the child and ensure they are complying with any court ordered sanctions/conditions.

Delinquency On Call and Extended Representation

▶ On Call Representation

- ▶ Be prepared to appear in court the day or days that you are on call.
- ▶ Speak with the APD and the child to ensure he/she understands the proceeding that will take place.
- ▶ If there is a plea, make sure to review the plea and answer any questions the child has.

▶ Extended Representation

- ▶ Delinquency judges refer children to Crossroads who have parents unwilling or unable to assist them in completing sanctions/probation or other needs.
- ▶ Referrals received for children who are victims of abuse or trafficking and children in juvenile mental health court.
- ▶ Represent the child for the duration of the jurisdiction of the court.
- ▶ Maintain a relationship with the Child and provide effective and knowledgeable advice and counsel to the Child, which builds long-lasting relationships and provides children with confidence and success.