

Juvenile Defense Manager-Supervisor Tool for Best Practices in Detention Advocacy

This tool is designed to provide guidance for managers and supervisors in juvenile defender organizations to identify, develop, and promote strategies and interventions that will heighten the level of advocacy aimed at minimizing the detention of juveniles.

To ensure effective detention advocacy, juvenile indigent defense delivery systems, agencies, offices, supervisors, and the private defense bar must support practices and policies that:

- Ensure juvenile defenders adequately prepare and gather information prior to the initial detention hearing;
- Mandate that juvenile defenders actively pursue their client's release from detention (if consistent with client's wishes);
- Require that juvenile defenders maintain zealous levels of advocacy for all detained clients throughout the court process;
- Establish routine policies and procedures to address the overuse of detention;
- Establish and maintain active relationships with detention facility administrators and staff; and
- Cultivate other strong managers and leaders who are accountable and take responsibility for raising and allocating resources to support strong detention advocacy.

I. SUPPORT EFFECTIVE PRACTICES

To support effective detention advocacy, here are some ways supervisors and managers from the indigent defense system and the private defense bar can ensure that frontline juvenile defenders provide zealous advocacy:

1. Ensure Defenders Adequately Prepare and Gather Information Prior to the Initial Detention Hearing:

- Create a brief initial client interview form with questions about possible alternative guardians, adherence to any prior court orders, anticipated release plans and any challenges the client may have complying with release conditions, educational status, extracurricular activities, employment, and health.
- Establish a detention hearing checklist to ensure all relevant arguments are raised. The checklist should include questions aimed at challenging the risk of flight and any court presumptions about dangerousness. Defenders should always prepare and present arguments for the client's release – if consistent with the client's stated interests.
- Require that defenders' release arguments include home release as well as other alternatives to detention.
- Ensure defenders review risk assessment instruments used with each client to verify whether the instrument was accurately completed and scored, and to prepare arguments as to why the score may exaggerate risks posed by the youth.

- Develop and distribute information about the consequences and negative impact of detention on youth, such as current research on the effects of detention on youth generally, the effects on particularly vulnerable populations, such as lesbian, gay, bisexual, and transgender (LGBT) youth, and the disproportionate rates of detention of youth of color.
- Ensure defenders prepare sample motions arguing that youth with Individualized Education Programs should remain in their current educational environment to maintain the required educational components.
- Compile a current list of interpreters for defenders to use when they perceive a language barrier with a youth.
- Create a standard motion against shackling youth that argues, in part, how shackling creates bias against youth and often renders youth unable to effectively communicate with counsel during (and prior to) court proceedings.
- Encourage defenders to investigate and address any instances of custodial mistreatment in local detention facilities, after obtaining an individual client's consent to do so.

2. Ensure Defenders Actively Pursue Their Client's Interest in Release from Secure Placement.

- Immediately following every order of detention, require that all defenders explore the possible bases for a motion for release.
- Create a sample motion for release that is based on the jurisdictional requirements for detention and release, and that contains a section to be filled in with individualized, client-specific arguments in support of release.
- Ensure that defenders actually file motions to pursue the client's interest in release.
- Ensure that defenders explore case-specific alternatives to secure detention, such as placement with family members, placement at a non-secure treatment facility, or home detention.
- Facilitate ways that defenders can maintain active relationships with local law school clinics and social work programs to obtain additional resources and assistance in finding client-specific alternatives to detention and to advocate for the release of detained youth.

3. Ensure Defenders Maintain Heightened Levels of Advocacy for All Detained Clients Throughout the Court Process.

- Keep informed of conditions within detention facilities, including the capacity of each facility, the required staffing ratios, histories of mistreatment or abuse, and whether facilities have policies of nondiscrimination based on race, gender, sexual orientation, gender identity, religion, etc., that treat all youth fairly and keep all youth safe, and ensure defenders have access to this information.
- Require that defenders routinely file motions for release based on updated information and when conditions of confinement for youth are unacceptable.
- Require defenders to return calls from clients in detention within 24 hours.
- Ensure that defenders have the ability to visit the detention facility.
- Require that defenders meet with detained clients no more than 48 hours after the initial detention.
- After the initial meeting, ensure that defenders designate a specific time each week to visit clients at the detention center. If defenders cannot visit each week, they should designate a member of the interdisciplinary team to cover detention center visits. For example, make an agreement with the court that on Wednesdays after 2pm there will only be emergency hearings so that defenders can go to the detention facility to see their clients. If the facility is far away, create a rotation schedule to ensure that someone from the office or the defense team visits all detained clients each week.

II. SUPPORT EFFECTIVE POLICIES

To support effective detention policies, supervisors and managers from the indigent defense system and the private defense bar must:

1. Establish Routine Policies and Procedures to Address the Overuse of Detention.

- Obtain daily copies of detention center population sheets with data about date of entry, race, gender identity, sexual orientation, and offense to assist defenders in tracking their detained clients.

- Conduct weekly detention meetings with staff to review the status of detained clients and to ascertain what actions have been taken and could be taken.
- Mandate defenders take steps each week toward removal from detention for every detained client.
- Establish and perpetuate routine detention data collection systems and protocols as a means of defender oversight and supervision.
- Develop office procedures to track what actions have been taken on behalf of detained clients. (*e.g.* using an electronic case processing/management system)
- Maintain daily charts with the number of spaces available in alternative to detention programs and distribute this information to all defenders.
- Raise awareness about which alternatives to detention are competent to serve specific populations, such as girls or LGBT youth.
- Require training on detention advocacy for all frontline defenders, including training on adolescent development and community-based programs.
- Allocate time for defenders to actively engage in JDAI work groups, *e.g.* the RAI development committee.
- Explore whether scheduling detention hearings in the afternoon would yield more time for defenders to meet with clients in the morning.
- Encourage defenders to establish routine review hearings for detained clients to ensure that release is considered by the court as often as possible.

2. Establish and Maintain Active Relationships with Facility Administrators and Staff.

- Ensure that defenders provide both detention center staff and clients with all contact information for purposes of attorney/client communications.
- Establish a procedure with the facility to inform defenders when a child requests a visit or phone call.
- Compile and disseminate all facility procedures regarding detained youth.

- Compile and disseminate all Prison Rape Elimination Act Standards applying to residents in juvenile detention centers.
- Post facility procedures for attorney/client phone calls, visits, and contact in the office. Every defender should know a detention facility's procedure when a youth requests to call or schedule a visit with his or her attorney.
- Post defender contact information in the detention facility.
- Establish a process with local detention facilities to ensure that any behavioral reports are sent to the defender prior to the hearing.
- Acquire a copy of any risk assessment tool or evaluation and become familiar with the language within it and what decisions the facility makes based upon it.
- Discern whether risk assessments or other procedures might have a disparate impact on particular groups of youth, such as LGBT youth.

3. Cultivate Other Leaders Who Are Accountable and Take Responsibility for Raising and Allocating Resources to Support Strong Detention Advocacy.

- Support holistic juvenile detention advocacy through an interdisciplinary team approach using social workers, investigators, paralegals, interns, and other community or youth advocates.
- Identify and support supervisors or leaders in each discipline who can provide mentoring and coaching.
- Establish monitoring and oversight procedures within the agency to monitor defender detention practice, such as regularly observing court hearings, reviewing motions for release, or collecting visitation logs at facilities.
- Implement weekly detention reviews with all staff attorneys for all detained cases so that supervisors can coach line staff on effective representation techniques.
- Ensure appropriate coaching or training for defenders who are not providing adequate detention representation.

Thank you for completing the Defense Manager-Supervisor Tool. NJDC is committed to promoting justice for all children by ensuring excellence in juvenile defense. If you need support in improving your detention advocacy, please reach out to NJDC for help.



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