

## COMMUNICATION CHECKLIST

**INTRODUCTION:** The foundation for Effective Communication: 3 C's: Calm, Caring, and Competent. With this foundation in place, effective communication is contagious. GALs and defense counsel can bring each other to a higher level of performance.

### ONGOING

- ☐ Include on email strings.
- ☐ Inform about staffings and other outside activities such as expulsion hearings.

### BEFORE EVERY HEARING

- ☐ Home or Placement Compliance.
- ☐ School Compliance including but limited to attendance, grades, and behavior.
- ☐ Pretrial supervision or probation compliance.
- ☐ Other cases pending including:
  - State level charges in other jurisdictions
  - Municipal
  - Dependency and Neglect
  - Truancy

### AT THE EARLIEST AVAILABLE OPPORTUNITY

- ☐ Custodial mistreatment at detention facility including psychological and/or education-related responsibilities.
- ☐ Nature of disabilities
- ☐ School records including individualized education program (IEP) and Individual Supervision and Management Plan (ISMP).
- ☐ Attitude adjustments (good cop/bad cop). Additionally, utilize support from the following individuals: family, friends, foster parents, mental health counselors, and mentors.

### BEFORE SPECIFIC HEARINGS

#### Return Filing Hearing

- ☐ Courtroom modifications to accommodate the needs of a youth with disabilities. They could include but are not limited to the following:
- ☐ closing the hearing to the public due to sensitivity of subject matter. In the alternative, requesting bench conference.

- ☐ waiving appearance because of anxiety, and/or run risk etc.
- ☐ certified interpreters or hearing devices for child or parent/guardian.
- ☐ Intention of involving DHS or request staffings referral for trauma screen, mental health assessment, mental health prescreen, and raising competency.
- ☐ Raising competency.
- ☐ Immigration (be discreet).

### **Before Status Hearing**

- ☐ GAL can write a communication to the District Attorney regarding the findings from the investigation.

### **Before Entering Plea**

- ☐ Long term specific collateral consequences including but not limited to immigration status, public housing, and military.
- ☐ Is a deferred adjudication offer in the child's best interests if she/he is currently doing poorly and therefore potentially setting up the juvenile for failure.

### **Adjudicatory Trial**

- ☐ Assistance with coordinating clothes, transportation, or similar trial- related issues.

### **Before Sentencing**

- ☐ Preparing the juvenile and parent/guardian and/or attending the probation interview.
- ☐ Helping to ensure that the juvenile is emotionally ready for the hearing including providing feedback concerning her or his prepared statements.
- ☐ Sharing sentencing recommendations.

### **During Sentencing**

- ☐ Observe the juvenile to determine if any emotional assistance is appropriate.
- ☐ Address prior DHS involvement and its consequences on the juvenile.
- ☐ Consider a specific treatment court referral.
- ☐ Special education and IEP compliance as a basis for maintaining the juvenile in the community.

### **After Sentencing**

- ☐ Explain to the juvenile what happened at the sentencing hearing and check on her/his emotional well being.
- ☐ If granted probation, the probation officer should also be able to identify the specific community facilities and programs that might be most effective for the youth with disabilities.
- ☐ The probation officer's responsibility is to ensure that the youth does not reoffend solely because he or she could not comprehend what was expected.
- ☐ If committed to the Division of Youth Corrections, discuss recommendations at DYC assessment staffing.

### **Before Reverse Transfer Hearing**

- ☐ Inform about the following:
  - child adolescent developmental issues
  - DHS history
  - DYC options
  - Competency

### **During the Reverse Transfer Hearing**

- ☐ Assistance with coordinating clothes, transportation, or similar trial- related issues.
- ☐ Consider waiving appearance because of anxiety, and/or run risk etc.
- ☐ Attempt to make closing statement or file closing brief regarding relevant aspects of statutory criteria to transfer case to juvenile court.

### **Settling Differences**

- ☐ Examples: defense counsel: ineffective assistance of counsel or not addressing conflicts of interests. GAL: Not showing up in court and/or staffings.
- ☐ Speak to the individual with the 3cs.
- ☐ Moving up the chain of command.

### **DEFENSE COUNSEL TO GUARDIANS AD LITEM**

- ☐ Motions and other pleadings
- ☐ Status of plea negotiations

### **EXTRA CREDIT PROJECTS**

- ☐ **Pre-Arrest**  
The youth with disabilities needs to understand and prepare for what will happen when contacted by law enforcement before it actually happens.

Examples:

- Stay calm and be polite.
- Don't be hostile or defensive.
- Don't run or resist arrest.
- Do not give any statements until a lawyer/guardian is present.
- Don't sign any papers.
- Know full name, address, and phone number.
- Keep identification card at all times.
- Explain to law enforcement that you have a disability and how it affects you.
- Inform law enforcement that you need an environment which is quiet and free from distractions.
- Any responses should be brief and noncommittal.
- Request to speak to a lawyer and family/guardian.
- If you don't understand something that is stated to you, indicate that to law enforcement.
- Review legal vocabulary which may be used during law enforcement encounter.

□ **Arrest**

Examples:

Indicators for law enforcement that a youth may have a disability:

- Poor verbal skills.
- Difficulty communicating.
- Alleged offense is committed in a disorganized manner.
- Significant delinquency history.
- Impulsivity
- Poor social skills
- Hyperactivity

When encountering youth with a potential disability, law enforcement should remember the following:

- Use simple language, speak slowly, and clearly.
- Give one direction at a time.
- Have the youth repeat your directions in their own words.
- Be patient for a response.
- Provide alternate Miranda reading so that the youth will more easily understand the substance of the warnings.
- Police should record information about the perceived disability and bring it to the attention of the detention center if the youth is taken into custody.

□ **Detention Facility**

- National Juvenile Defense Standard 2.8: Obligation to Investigate and Address Custodial Mistreatment  
If counsel learns that the client has experienced abuse or misconduct by law enforcement, detention officials, or other persons in a custodial facility, with the client's consent, counsel should document the extent of client's injuries and take appropriate steps to stop the mistreatment. Counsel should also challenge the

indiscriminate shackling of children in custody.

- National Juvenile Defense Standard 10.8: Report and Address Harmful Conditions of Confinement Counsel is in a unique position to identify and address any harmful or unlawful conditions of confinement and to address system-wide abuses.
- Example: Strip searches and Gilliam. Collaboration between public defenders office, ADC, and OCR “trained professionals” and our clients wouldn’t have to be searched after our meetings with them.
- The detention center should be aware of the following symptoms of disabilities which could impact the youth with disabilities throughout the juvenile justice process. This information should be recorded and distributed to all professionals involved.
- Seclusion and restraint procedures should be utilized only in emergency situations when there is imminent danger to the youth or others. It should not be utilized for discipline or punishment.
- It should be discontinued at the earliest point possible.

□ **Juvenile Residential Treatment Facilities**

Example: Staff at juvenile residential treatment facilities should consider the following:

- The youth with disabilities should be placed in the type of facility which meets the youth’s particular needs. For instance, a facility which specializes in dual diagnosis treatment may be appropriate for those youth with disabilities with an accompanying substance abuse disorder.
- The facility should implement comprehensive staff training on identifying and treating youth with disabilities.
- The facility should distribute written policies of residents’ rights and remedies which the youth can maintain for future reference.
- The facility should arrange for the immediate transfer of educational records and academic credits from the youth’s former school.
- The facility should conduct an immediate and comprehensive special education assessment when appropriate.
- The facility should establish and implement an effective anti-bullying safety plan (see topic under Detention Facility heading).
- The facility and the other involved professionals should develop a timely and comprehensive aftercare plan which includes school, work, and the home environment. In order to develop an effective aftercare plan, the facility should maintain a database of aftercare programs that are successful/unsuccessful.

- **Recommendations for Further Reform**  
National Juvenile Defense Standard 10.1: Participate in Policy Development and Review-Counsel should identify and promote potential issues and strategies that would strengthen and enhance juvenile indigent defense policy and practice, develop leadership, and build the capacity of the juvenile defense bar. Counsel should participate in ongoing policy and reform efforts that will have an impact on youth rights or juvenile court processes.
- There should be increased specialized training among all juvenile justice professionals to address disproportionate minority representation and protecting the rights of youth with disabilities in the juvenile justice system. This information should be disseminated to all interested policymakers, law enforcement personnel, and the public.
- There should be improved communication and collaboration between schools and juvenile professionals regarding identification of disabilities and in the development and implementation of educational plans.
- There should be increased training of law school students with appropriate internships. Special education law should become an essential element of the juvenile law classroom curriculum.