

# **JD INVESTIGATION AND EDUCATIONAL ISSUES FOR GALS**

March 4, 2016, Centennial, CO

Jamie Henderson, Esq.  
1525 Josephine Street  
Denver, CO 80206  
(303) 830-0038

## **I. INVESTIGATION TO DO WITH JUVENILE/FAMILY**

- A. Information to Get in Court: Review Police Reports/Discovery
  - 1. Time of Arrest/ Location of Arrest (compared to home).  
How far from home? How did juvenile get there?  
Were parents aware of juvenile's whereabouts?
  - 2. Names of who juvenile was stopped with.  
Ask juvenile and parents who these people are? Best friends? Casual acquaintances? Relatives?
  - 3. Detention information – names of relatives
  - 4. Detention worksheets – information on drug use, past criminal record, FTA's.
- B. Interview of Juvenile -- General
  - 1. Location: Consider immediate interview in detention.  
Get location without interference if possible. (Ex. TV off, no others present).
  - 2. Preface/Disclaimer
    - ✳ Outline the difference between your role as GAL and role of PD/Defense counsel. Explain that the judge makes decisions, but your input is major.
    - ✳ Explain reasons why GAL's are appointed.
  - 3. Areas to question – virtually unlimited.
    - ✳ Where have they lived? (Can reveal instability – lots of moves).
    - ✳ Who have they lived with? May reveal other responsible adults, lack of adult supervision, others to question.
    - ✳ Ask about local relatives/Contacts. Get phone numbers to call.
- C. Investigation of Educational Background from Juvenile
  - 1. Get history of schools enrolled in – going backwards.
  - 2. Ask about whether child is in special ed. classes. LD or ED? In Affective Needs classes?
  - 3. Suspensions/Expulsions. How many? For what reasons?
  - 4. Grades – what type of grades? What sort of classes?

D. Competency Questions

1. Be sure to use simple language to explain concepts. Especially important for those 14 and under.
2. Don't ask "do you understand?" concepts, but have them explain concepts.
3. May need to try explaining things several times. See if concepts "take" or not.
4. Competency is issue that can be raised by GAL independent of defense. Juvenile defense probably wants to raise incompetency.

E. Acquiring Documentation for Competency Evaluations

1. GAL's often times can get educational documents from school faster than the defense counsel. Importance of sharing this documentation.
2. Seek most recent IEP and triennial IEP. Triennial IEP should include IQ testing. Raw rule: Under 70 IQ likely to be found incompetent.
3. If accommodations are made in classroom – why not in court?
4. Issue of juveniles ultimately found "incompetent but restorable." This sometimes results in juveniles out of home for a long time.

F. General Lifestyle/Home Questions to Juvenile

1. Co-Arrestees. Careful issues not to get into trial issues. Ask if they know them/ how long they have known them. Close friends?
2. Ask about health – any problems? Hospitalizations? (Sometimes reveals mental health hospitalizations)
3. Medications: Have they been on any? (Often reveals mental health issues). Get names.
4. Ever been in counseling before? Where? With whom? For what? Get names of counselors for potential records. Need releases to get information.
5. What are Home Rules? Chores/curfews? How detailed are they? Does the juvenile think they're fair? Does he abide by them? What consequences are given for rules violations? Does juvenile agree to those or fight them? Also gives ideas of verbal/physical discipline.
6. Ask where they've lived/with whom? Ever been in a placement/ Had a social worker/GAL?
7. Ask in general about Parents. Give a laundry list of potential problems – legal, medical, mental health, alcohol/drugs. Easier to do with older juveniles.
8. Drugs: Ask "have you ever tried weed?" Alcohol/ name harder drugs. Don't ask "do you use often?" Instead "How many times/week do you smoke? Where/when do you smoke? Where do they get the money?"
9. Gang involvement. Ask if they are in gangs? Have friends in gang? Be aware of your insight especially when siblings/relatives are involved in underlying arrests and/or are witnesses. Pay attention to clothing/language.

- G. Especially in Jail Interview/Give general information about court system/expectations.
  - 1. Timeline for case. Likely array of court appearances.
  - 2. Details of players (DA, Public Defender, GAL, judge, Pretrial/detention release).
  - 3. Discussion about appearance/behavior in court.
  - 4. General description of choices they may need to make.
  
- H. Interview of Parent/Relatives
  - 1. Phone calls at start of case. (Eager to talk; want information).
  - 2. Diagnostic as to attitude toward juvenile.
  - 3. Ask similar questions as to child. (See if answers are different).
  - 4. Ask parent/relative what the parent thinks the child needs. Helps you judge needs of family, sometimes the appropriateness of parent.
  - 5. Seek multiple relatives/friends.
  - 6. Share information about court system, timeframes.
  
- I. Home Visits
  - 1. Not necessary per Chief Justice Directive, unless court notifies.
  - 2. Special Situation to check on:
    - Sex cases. See how much supervision and privacy the child has.
    - Figure out who else is in the home. Lots of people in and out?
    - Appropriate supervision?
    - May help in more cases than we know.

## II. INVESTIGATION TO DO OUTSIDE THE FAMILY.

- A. Detention Center Staff/Educational Staff. They may have access to special ed records and can often get faster information about IEP and schools. Often get behavioral records.
- B. Pretrial release worker and tracker. Often have more immediate information about supervision/lack of supervision in home and other problems.
- C. Review Colorado State Courts Data Access.
  - 1. Review all past records of juvenile – discover old D&N cases, status of past charges.
  - 2. Review records of parents/relatives in the home.
- D. Contact School counselors/ social workers/teachers.
  - 1. Get information re: Juvenile vs. family issues. (Ex. Can discover major parental problems.)
  - 2. Get idea of engagement of family and whether school has attempted to handle problems.
  - 3. Get signed releases from parents and/or order/subpoenas from court to obtain records.