

Ethical Considerations In Delinquency Cases

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"I suppose I'll be the one to mention the elephant in the room."

Scenario

- Jordan is 14 years old and is charged with a class five felony, aggravated motor vehicle theft, in a juvenile delinquency proceeding.
- Jordan is on juvenile probation for a previous charge and is facing a revocation petition in that case due to his new charge and noncompliance issues. He has missed several appointments with his probation office, has not been consistently attending school and has failed to drop two UAs.
- Jordan's mother is not a placement option and his father lives in Utah. Father has a history of domestic violence against mother and alcohol abuse.
- Jordan is represented by the Office of the Public Defender and his best interests are represented by a G.A.L.

Question 1

- Jordan has been offered a plea agreement in his new case. If he admits to the felony charge, the DA will agree to recommend a 30 day detention sentence and then case closure (no more probation). There are no viable defenses to the charge despite investigation and discovery. Jordan wants to be done with probation so that he can move to Utah with his Father.

Would you support this plea agreement?

Considerations for Defense Counsel

Rule 1.2
Rule 1.4

Considerations for GAL

Rule 1.2
Rule 3.4(c)
CJD04-06(V)(B) & (E)

Additional Considerations

Does your position change if the G.A.L. discovers that Father in Utah has three new misdemeanor charges, 2 DUIs and 1 DV with his current girlfriend (who was recently convicted of possession of Marijuana)?

Would it matter if Jordan also had a dependency and neglect case and his GAL represented him in both cases? If Father had not participated in that case or complied with his treatment plan?

Should the GAL be involved in plea discussions between the defender and juvenile?

Considerations:

- Rule 1.6 – Confidentiality
- Privilege – 13-90-107
- Relationship with client/trust
- Rule 2.1 – counseling and advice
 - Client’s understanding

Due to the GAL’s advocacy the plea agreement has fallen through and Jordan adamantly denies the charges and wants to take the case to trial. The deadline for motions has come and gone without the filing of any suppression motions. Jordan reports to the GAL that he has not been able to reach the defense counsel.

Considerations for the GAL

- Rule 8.3
- CJD 04-06 (V)(E)(3)(b)

Jordan is in pretrial detention and he reports to defense counsel that his GAL has not visited him or talked to him.

Considerations for Defense Counsel

- Rule 8.3
- CJD 04-06 (V)(E)(1)
- CJD 04-06 (V)(E)(4)(a)

Jordan also informs his GAL or defense counsel that he is questioning his gender and he believes his is facing some bullying as a result of some of his behaviors. He does not want his parents to know about this, as he is afraid that they will disown him.

Would it be in the juvenile's best interest to disclose this information?

Considerations for defense counsel

- Rule 1.6
- C.R.S. 13-90-107
- Client-centered Representation
- Stated or Expressed Interest

Considerations for G.A.L.

- Rule 1.6
- CJD 04-06 (V)(B)

What is the one big takeaway that I want the other Professional in my case to know or understand?

- GALs use GREEN
- Defenders use YELLOW
