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STATE OF UTAH

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# Juvenile Disposition Guidelines



This manual can be found at <https://justice.utah.gov/Sentencing/>

## Utah Sentencing Commission

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## I. INTRODUCTION

The Utah Sentencing Commission, pursuant to its statutory authority and responsibility, under Utah Code § 63M-7-404, promulgates the following 2020 Juvenile Disposition Guidelines, which is statutorily intended to:

- Respond to public comment;
- Relate dispositional practices and correctional resources;
- Increase equity;
- Better define responsibility; and
- Enhance the discretion of Juvenile Court Judges while preserving the role of the Youth Parole Authority.

The Utah Sentencing Commission is charged to recommend and coordinate sentencing and release policy for both adults and youth within the State of Utah. It consists of seventeen members who represent many facets of the justice system: judges, prosecutors, defense attorneys, victims, law enforcement, treatment specialists, corrections, parole authorities, and others. It is important to note that this is a guide. It is intended to inform the juvenile court judge, but does not dictate the decision. It does not create any right, expectation, or liberty interest on behalf of the youth. In addition to the information referenced in these guidelines, the Juvenile Court Judge also considers, consistent with the ends of justice, the best interest of the youth pursuant to Utah Code § 78A-6-102(5)(g).



## II. BACKGROUND

In 1994, the Juvenile Justice Subcommittee of the Utah Sentencing Commission initiated a review of disposition of youth. This Subcommittee developed a uniform system of dispositions based upon earlier intervention and more intensive supervision for chronic youth but failed to gain funding during the 1996 General Legislative Session. In 1996, a legislative task force was created to study major issues in the juvenile justice system, including the dispositions of youth. Through a wide spread cooperative process, the Presumptive Standards evolved into the Juvenile Sentencing Guidelines in a matrix format. A unified voice including the Sentencing Commission, Juvenile Courts, the Division of Youth Corrections (now the Division of Juvenile Justice and Youth Services (JJYS)), and the Governor's Office recommended the Juvenile Sentencing Guidelines to the legislative task force, which, in turn, adopted them. The 1997 legislature funded them by means of passing SB 25 Sentencing Guidelines, which is now codified at Utah Code § 63M-7-404.5 and § 80-6-307. Since 1998, the Utah Juvenile Court and JJYS have collaborated to improve practices in working with youth by implementing evidence-based practices. The goal of this continuing process is to incorporate evidence-based practices into each component of the juvenile justice system.

In 2016, PEW Charitable Trusts (PEW) in collaboration with the Juvenile Justice Oversight Committee (JJOC) created by the Governor's Office conducted an assessment of Utah's Juvenile Justice System. The assessment found the following:

- Utah's system lacked statewide standards leading to inconsistent responses and disparate outcomes throughout the juvenile justice system;
- Most youth who enter the system are referred for low-level offenses and are at low-risk to reoffend;
- Youth who have never committed a felony offense make up a large portion of out-of-home placements, potentially increasing their risk to reoffend;
- Youth remain stalled in the system for long periods due to court-ordered conditions such as financial obligations; affordable, accessible services that effectively hold youth accountable and keep families intact are largely unavailable to the courts across the state;
- Out-of-home placement costs 17 times more than community supervision, but results in similar rates of re-offending;
- Racial disparities persist for all types of probation and custody dispositions, and the disparities grow larger as youth progress deeper into the system, especially once they are removed from home.

In 2017, the Utah Legislature enacted extensive changes in the juvenile justice system to address the issues identified by PEW

and JJOC.

The Utah Legislature continues to expand the legislation created in 2017. In 2019, the Legislature passed Senate Bill 32, which now mandates the automatic appointment of counsel for all youth in delinquency proceedings and requires appointed counsel to be present at all stages of the proceedings, including detention hearings, post-dispositional review hearings, as well as on appeal. In 2020, the Utah Legislature enacted significant changes that affected, among other things, which cases are referred to juvenile court, who is eligible for detention, how long the juvenile court can retain jurisdiction over a youth, and when youth can be tried in the adult criminal justice system.

The Sentencing Commission, the Utah Juvenile Court, and JJYS continually review the Juvenile Dispositional Guidelines making reforms and amendments to conform with the most recent legislation, evidence-based practices and to continue to address concerns highlighted by JJOC.



### III. UTILIZING THE GUIDELINES

These Juvenile Disposition Guidelines are a cooperative venture. The effort is to provide a mechanism for communication and improvement of key policy rather than to dictate practice by statute or rule. For the Juvenile Disposition Guidelines to function well, several policies are important. The policies need not be implemented exactly as stated, but their intent is critical.

#### Juvenile Court Judges

The Juvenile Disposition Guidelines recommendations are included in the dispositional report. Juvenile Court judges are encouraged to consider the Juvenile Disposition Guidelines when rendering dispositions in delinquency matters. Judges should state in open court and on the record the factors that inform the disposition. Any other analysis pursuant to the best interests of the child should also be included on the record.

#### Probation Officers and JJYS Case Workers

The Juvenile Court probation department and JJYS case managers shall consider the Juvenile Disposition Guidelines when making dispositional recommendations to the Juvenile Court. The Juvenile Disposition Guidelines are included as part of the dispositional report prepared and submitted to the court. If there is a deviation from a statutory presumption or an increase in the level of supervision, the specific factors supporting the deviation or increase should be outlined in the report.

#### Prosecutors

Prosecutors may use the Juvenile Disposition Guidelines to determine the implications of charging and plea negotiations. The Juvenile Disposition Guidelines are intended to make the system predictable by making explicit the dispositional recommendation a youth with a given background is likely to receive. This makes charging decisions and plea negotiations even more critical. Prosecutors should make it a policy to explain the effect of charging, plea negotiations, and the effect of any transfer to District Court to each victim in each individual case. Prosecutors should make clear to victims that any recommendations to either the Juvenile Court judge, or to the District Court judge upon transfer, are recommendations only. It should not be presumed that prosecutorial recommendations will be the order of the Court. Some factors informing disposition are not always known by probation officers or JJYS case managers. Therefore, prosecutors are strongly urged to make any relevant factors known to the court before disposition. The disposition ultimately imposed in either Juvenile Court or District Court is subject to the sole discretion of the assigned judge.

## Defense Attorneys

Defense attorneys may use the Juvenile Disposition Guidelines to determine the implications of charges and plea negotiations to better advise clients. When disposition recommendations deviate from the Juvenile Disposition Guidelines, defense attorneys should inquire into factors or reasons for the deviation. Some factors informing disposition are not always known by probation officers or JJYS case managers therefore, defense attorneys are strongly urged to make any relevant factors known to the court before disposition. The disposition ultimately imposed in Juvenile Court is subject to the sole discretion of the assigned judge. However, when disposition deviates from the Juvenile Disposition Guidelines, defense attorneys should request that factors for deviation be stated in open court and included on the record.

## Victims

The Juvenile Disposition Guidelines may provide victims a clear level of expectation for resolution of the case. Victims should also understand that the disposition ultimately imposed in Juvenile Court is subject to the sole discretion of the assigned judge and may deviate from the Juvenile Disposition Guidelines.

## Youth and Their Family Members

The Juvenile Disposition Guidelines may provide youth and their family a clear level of expectation for resolution of the case. The Juvenile Disposition Guidelines may also provide family members guidance for their involvement in the juvenile's rehabilitation and treatment, if appropriate. Youth and their family should also understand that the disposition ultimately imposed in Juvenile Court is subject to the sole discretion of the assigned judge and may deviate from the Juvenile Disposition Guidelines.

## Media

The media should consider the Juvenile Disposition Guidelines when reporting on dispositional orders in Juvenile Court in an effort to inform the public about juvenile dispositional practices. The media should also keep in mind, and inform the general public that, the disposition ultimately imposed in Juvenile Court is subject to the sole discretion of the assigned judge and may deviate from the Juvenile Disposition Guidelines.



## IV. PHILOSOPHY OF THE JUVENILE JUSTICE SYSTEM – THE BALANCED AND RESTORATIVE JUSTICE MODEL

The philosophy and intent of Utah's juvenile justice system is based on the Balanced and Restorative Justice Model, which is comprised of three important and supportive goals:

- Community Protection;
- Youth Accountability; and
- Competency Development.

Utah's juvenile justice system also relies upon the foundational principles of judicial discretion and individualized justice when deliberating disposition and release decisions for youth. The system values uniformity while, at the same time, ensuring that the Juvenile Court has the ability and flexibility to tailor dispositions that best serve the needs of the community, victims, and the individual youth.

## Community Protection

Community protection disposition decisions are considered with the overarching goal of community protection. In addressing community protection, dispositions should utilize:

- Assessment results to efficiently and effectively focus intervention resources and apply sanctions appropriately;
- A continuum of evidence-based graduated sanctions that are designed and proven to reduce recidivism; and
- Individualized supervision conditions that are specific to the youth's behavioral needs.

## Youth Accountability

Disposition decisions are also considered with the goal of fostering accountability on the part of the youth. Establishing clear, consistent, and timely consequences for violations of the law, disposition should:

- Encourage skill development and increase pro-social interactions in an effort to decrease recidivism;
- Ensure victim interests such as safety and peace of mind, restitution, and participation in the process;
- Develop a sense of responsibility to the community and to victims through appropriate restorative justice opportunities; and
- Incorporate the family unit when appropriate in rehabilitative and treatment efforts to create a safe and secure support system.

## Competency Development

Disposition decisions are also considered with the goal of competency development on the part of the youth. Ongoing community safety is directly related to changing the behavior of the youth. Therefore, emphasis and attention should be given to meeting the needs of the youth that will foster lasting change. Disposition decisions can enhance a youth's chance of successful integration into the community through the use of:

- Individualized case plans that target those dynamic risk factors most impactful to the youth's behavior, incorporate a youth's responsivity factors, and provide opportunities for the youth to be incentivized for positive behavior change and take accountability for problematic behavior.
- Opportunities for the youth to learn how to change their behavior by participating in skill-based interventions/programs that target their dynamic risk factors.
- Engagement of the youth and family to capitalize on protective factors that exist to support their efforts at change.



## V. SUPPORTING EVIDENCE-BASED PRACTICES

Evidence-based practices within the juvenile justice system are those practices that have been empirically shown to improve youth outcomes and reduce recidivism. The set of evidence-based practices adopted by the Utah Juvenile Court are the *Principles of Effective Intervention*. These principles, developed by Andrews and Bonta, are based on more than thirty years of research and include four basic principles: risk, need, responsivity, and program integrity.

The principle of *Criminogenic Risk* demonstrates that interventions/services should be focused on higher risk youth. Evidence has shown that providing intensive intervention to low-risk youth could increase the likelihood that they will reoffend in the future by disrupting their protective factors and exposing them to higher risk youth.

The principle of *Criminogenic Need* demonstrates that interventions/services provided should address the dynamic, changeable risk factors most directly associated with the youth's delinquent behavior. There are eight criminogenic need areas that have shown to either lead to further delinquency if there are deficits or prevent further delinquency if there are strengths. Those areas are the following; a history of antisocial behavior, antisocial personality pattern, antisocial cognition, antisocial associates, family, school and work, leisure and recreation, and substance abuse. Intervention that focuses on

addressing deficits in these areas of criminogenic needs is more likely to reduce recidivism.

The principle of *Responsivity* has two parts, general and specific. The evidence for general responsivity demonstrates that interventions/services should be the modality to most effectively address criminogenic needs. Cognitive Behavioral Treatment (CBT) has been shown to be the strongest modality at addressing criminogenic needs because it has two components; the realignment of cognitive thought processes as well skill practice to assure the youth has the ability to apply what they've learned in treatment to real-life situations. Specific responsivity demonstrates that the approach of the intervention provider should be tailored to the individual characteristics of the youth. Specific responsivity characteristics of the youth to consider could include gender, culture, trauma history, developmental stages, learning/cognitive disability, motivation, reading ability, and/or mental health.

The principle of *Program Integrity* demonstrates that programs should be designed intentionally to utilize all of the aforementioned principles and should foster strong leadership and staff skills that further evidence-based practices. The principle also demonstrates that programs should be internally and externally monitored for implementation quality and treatment fidelity to ensure that programs are delivered as designed and intended.

Evidence-based practices are applicable not only in the assessment and case planning process but in disposition as well. Any disposition entered should be compatible with the youth's case plan, should address identified criminogenic risk and needs, as well as take into consideration the responsivity issues of the youth.

The Utah Juvenile Court contracts with, and also internally operates CBT programs that aim to increase a youth's skills and protective factors to reduce their risk to reoffend. CBT has been shown to be one of the strongest modalities at addressing criminogenic needs because it has two components; the realignment of cognitive thought processes as well as skill practice to assure the youth has the ability to apply what they've learned in treatment to real-life situations. There are many CBT curriculums including Dialectical Behavior Therapy (DBT), Rational Emotive Behavior Therapy (REBT), and Cognitive Processing Therapy (CPT) to name a few. The Court's internal and contracted programs are regularly assessed by an in-house quality assurance team using the University of Cincinnati's Correctional Program Checklist to assure that they are adhering to evidence-based practices. Probation management also works closely with probation officers to monitor and coach evidence-based practices.

Other evidence-based treatments and programs may be utilized throughout the state to reduce risk of re-offending. The Juvenile Disposition Guidelines do not endorse one form of treatment or program over another. However, it is imperative that the treatment or program is in fact evidence-based. Evidence-based refers to the strength of research, not simply the existence of opinions, studies or research. Expert opinion, individual case studies, and cohort studies, while potentially promising, do not constitute evidence-based practices. A minimum of two or more randomized controlled trials or a systematic review (also known as a "meta-analysis") constitutes evidence-based practices.



## VI. CRIMINOGENIC ASSESSMENTS

In order to identify the criminogenic risk and needs of a youth, a number of risk assessments and screening tools are utilized in Utah. Utah juvenile probation and JJYS use two main risk assessment tools: the Pre-Screen Risk Assessment (PSRA) and the Protective and Risk Assessment (PRA). Both of these assessment tools are based on the Washington State Juvenile Court Assessment, and have undergone validation studies following adaptation with Utah-specific populations.

The PSRA is a brief assessment tool designed to screen youth in the preliminary stages of involvement with the juvenile justice system and to determine if additional assessment is needed. The PRA is a more in-depth assessment that examines a wide variety of factors related to the youth's strengths and challenges in ten different life areas called domains. These domains include: delinquency history, school, employment, relationships, environment, current living arrangements, alcohol and drugs, mental health,



attitudes and behaviors, and skills. The assessment of each domain is based on identification of protective factors that are related to the reduced likelihood of reoffending and risk factors that are related to the increased likelihood of reoffending.

In addition to these core assessments, Utah juvenile probation and JJYS also utilize a number of specialty assessments for youth with specific needs. For example, the Massachusetts Youth Screening Instrument (MAYSI-2) is used to determine if the youth would benefit from additional assessment by a mental health professional and can be used to identify responsivity factors that may need to be considered in the youth's individualized case plan, such as history of traumatic experiences. JJYS also utilizes the PTSD Screening Inventory (PSI) to help identify youth who may have been exposed to trauma or who are experiencing traumatic stress symptoms.

The results of the PRA and a self-assessment completed by the youth, known as the BAW (Behavioral Analysis Worksheet), are incorporated into a formal, individualized case plan. The case plan details for the youth, their family, and the probation officer or JJYS case manager what areas to focus efforts on in order to increase the youth's strengths (protective factors) and reduce their risk to commit offenses in the future. The case plan is regularly reviewed and updated as the youth makes progress in reducing their risk factors. For more information on evidence-based practices, risk assessment, and case planning, visit Evidence Base Practices in Utah Juvenile Court, located at: <https://www.utcourts.gov/en/about/courts/juv/ebp.html>



## VII. ADOLESCENT BRAIN DEVELOPMENT

One of the last areas of the brain to develop is the prefrontal cortex. This area of the brain does not fully develop until an individual's mid 20's. (Arain, 2013; Giedd, 2004). The prefrontal cortex is responsible for judgment, reasoning, problem solving, rational decision making, and consequential thinking. (Arain, 2013). Because an adolescent's prefrontal cortex is not fully developed, youth rely more heavily on their limbic system. (Arain, 2013). The limbic system controls emotions, including fear, aggression, anger, and the fight or flight response. Furthermore, the limbic system also controls pleasure seeking, risk taking, self-control and impulsivity. (Arain, 2013). Developmental science helps explain why adolescents engage in delinquent behavior.

Based on the stage of their brain development, adolescents are more likely to act on impulse and emotions; misread or misinterpret social cues and emotions; be aggressive; and engage in dangerous or risky behavior. (Arain, 2013; Leijenhorst et al., 2010; Steinberg et al., 2008). Adolescents are less likely to make logical or appropriate decisions; think before they act; resist peer pressure; consider the consequences of their actions; and change their dangerous or inappropriate behaviors. (Arain, 2013; Steinberg & Monahan, 2007). Adolescents are also less capable of accurately identifying the emotions or intentions of others which may lead to inappropriate responses or behaviors. (Arain, 2013).

Brain development helps explain why youth engage in delinquent behavior. Not surprisingly, delinquent behavior peaks at about age 17, but subsequently declines. (Farrington et al., 2012; Piquero et al., 2003). In fact, the vast majority of youth who commit crimes, even those who commit the most serious crimes, eventually grow out of antisocial and delinquent behavior. (Farrington et al., 2012; Piquero et al., 2003; Loeber et al., 2013). Only between five to ten percent of all youth who have committed crimes continue offending during adulthood. (Moffitt, 1993).



## VIII. TRAUMA

The dictionary defines trauma as a deeply distressing or disturbing experience. The American Psychological Association defines trauma as an emotional response to a terrible event. These broad definitions can apply to a number of events that youth experience throughout their lives including traffic accidents, bullying, violence, abuse, or even death of someone they know. (Winerman, 2015). Using this broad definition, research indicates that more than two-thirds of American youth will experience a traumatic event in their life. (Winerman, 2015).

In the late 1990's a research study was conducted on the effects of child abuse, neglect, and household challenges on later-life health and well-being; the results of this study have widely become known as Adverse Childhood Experiences or ACES. ACES are potentially traumatic events that occur between the ages of 0 and 17 and include "physical or emotional abuse or neglect, sexual abuse, domestic violence, substance abuse or mental illness in the home, parental separation or divorce, having an incarcerated household member, and not being raised by both biological parents." (Soleimanpour et al., 2017). Current research has expanded on the ACES study and looked beyond the home. Today, research indicates that socioeconomic factors such as poverty, neighborhood violence, microaggressions due to race, and other similar factors can also cause trauma. (Collins et al., 2010; Bradley-Davino & Ruglas). The effects of trauma have been shown to have an effect on a youth's educational performance, behavioral issues, drug and alcohol issues, and suicidal ideation. (Soleimanpour et al., 2017; Kerig, 2014).

While many youth may experience traumatic events, not all youth will have trauma reactions. According to the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5) trauma reactions are reactions that involve intrusions into thoughts or emotions, avoidance, changes in thoughts and mood, and changes in arousal and reactivity. Who experiences trauma reactions is determined by a number of factors including resilience, coping mechanisms, and how adults around the youth respond to the traumatic event (Kavanaugh 2017). "When exposed to trauma or mistreatment, a youth may cope by resorting to indifference, defiance, or aggression as self-protective reactions. In these cases, risk taking, breaking rules, fighting back, and hurting others who are perceived to be powerful or vulnerable may become a way to survive emotionally or literally." (Ford et al., 2007). Often, it is these behaviors that bring youth before the juvenile justice system. (Kavanaugh, 2017; Ford et al., 2007).

Youth within the juvenile justice system tend to have a higher rate of exposure to traumatic events with some research indicating that as many as 80% of juvenile justice involved youth having exposure to at least one traumatic event. (Snyder, 2018; Kavanaugh, 2017). Fortunately, evidence-based treatments and programs can improve a youth's response to trauma and trauma reactions. (Snyder, 2018; Kavanaugh, 2017). Trauma-specific treatment can reduce symptomatology, with some interventions helping to reduce recidivism. (Snyder, 2018). Evidence-based and best-practice treatments include CBT and DBT therapy. (Snyder, 2018; Kavanaugh, 2017). For a list of other best-practice treatments and other individual interventions to address trauma, see *Implementation of Trauma-Focused Cognitive-Behavioral Therapy in Juvenile Detention: A Practice Note From the Field* by Sean E. Snyder.



## IX. JUVENILE COURT PURPOSE

The Juvenile Court is a court of equal status with the District Courts in the State of Utah. Pursuant to the Juvenile Court Act, fully enumerated at Utah Code § 78A-6-102(5), the Juvenile Court purpose is to:

- Promote public safety and individual accountability through appropriate sanctions for violations of law;
- Order appropriate measures to promote responsible citizenship and reduce recidivism, preferably in the youth's own home;
- Order appropriate rehabilitation, reeducation, and treatment;
- Establish appropriate authority over youth who are beyond parental or adult control;
- Adjudicate matters related to abused, neglected, or dependent children;
- Remove a youth from parental custody only where the youth's safety or welfare, or the public safety, may not otherwise be adequately safeguarded; and
- Consistent with the ends of justice, act in the best interests of the youth and preserve and strengthen family ties.



## X. JUVENILE COURT JURISDICTION

Except as otherwise provided by law, the Juvenile Court, for the purpose of delinquency, has exclusive original jurisdiction

under Utah Code § 78A-6-103 over proceedings concerning:

- An individual person under 21 years of age at the time of all court proceedings, who has violated any law or ordinance before becoming 18 years of age, excluding offenses listed in § 78A-7-106(2);
- An individual under 21 years of age at the time of all court proceedings, who was 18 years old, and enrolled in high school, at the time the offense was committed, who has violated any law or ordinance under state or municipal law; and on school property where the individual was enrolled when school was in session; or during a school sponsored activity, as defined in § 53G-8-211.
- An individual under 25 years of age who committed an offense listed in § 80-6-605 and had jurisdiction extended pursuant to § 80-6-605.
- The treatment or commitment of a youth with an intellectual disability; a mental illness; or who is found not competent to proceed; a youth under the Interstate Compact for Juveniles; and commitment of a child to a secure drug and alcohol facility in accordance with §26B-5-204.

Despite the filing of a Petition in Juvenile Court alleging a violation of law, Juvenile Court proceedings are nevertheless civil in nature pursuant to Utah Code § 80-6-601. Thus, upon a finding that a youth under the Juvenile Court's jurisdiction has violated a law, no finding of guilt enters as it would in District Court. Rather, in Juvenile Court, a youth is adjudicated delinquent of a criminal offense and an appropriate disposition is entered. A disposition is similar in concept to a sentencing in District Court but carries both a different purpose as well as different legal implications.



## XI. DISTRICT COURT JURISDICTION

In limited circumstances, the District Court has jurisdiction over allegations of violations of law committed by youth.

**Statutory District Court Jurisdiction (Direct File):** Pursuant to Utah Code § 78A-5-102.5(2), the District Court has original jurisdiction over an offense of aggravated murder, or murder, that is committed by an individual who is 16 or 17 years old at the time of the offense.

**Transfer to District Court (Discretionary Waiver):** Pursuant to Utah Code § 78A-5-102.5(3), the district court has subject matter jurisdiction over any offense for which the juvenile court has transferred original jurisdiction over the offense to the district court. In the case of a youth 16 to 17 years of age the prosecuting attorney may request the Juvenile Court w and transfer the case to the District Court for any of the following offenses if the minor was a principal actor:

- Aggravated assault resulting in serious bodily injury to another;
- Attempted aggravated murder;
- Attempted murder;
- Aggravated kidnapping;
- Aggravated sexual assault;
- Aggravated arson;
- Aggravated burglary;
- Aggravated robbery;
- Felony discharge of a firearm; or
- Any other felony offense involving the use of a dangerous weapon if the youth has previously been adjudicated or convicted of a similar offense.

In the case of a youth 14 or 15 years of age the prosecuting attorney may request the Juvenile Court transfer the case to the district court for any of the following felony offenses if the minor was a principal actor:

- Aggravated murder;
- Attempted aggravated murder;

- Murder; or
- Attempted murder.

A preliminary hearing must be held in Juvenile Court to determine probable cause. The State has the burden of proving probable cause, as well as establishing by a preponderance of the evidence that it would be contrary to the best interests of the youth and the public for the Juvenile Court to retain jurisdiction. In making its decision, the Juvenile Court considers the following factors, enumerated fully in Utah Code § 80-6-504(3), with the Juvenile Court determining the weight to be given to each factor:

- The seriousness of the offense;
- Whether the protection of the community requires the youth be detained beyond the amount of time allowed or beyond the age of jurisdiction of the court;
- If the offense was committed in an aggressive, violent, premeditated manner, or willful manner;
- The juvenile's mental health history;
- The juvenile's physical history;
- The juvenile's educational history;
- The juvenile's trauma history;
- The juvenile's social history;
- The juvenile's previous criminal or delinquency history; and
- The likelihood of rehabilitation by the use of services and facilities available to the juvenile court.

Written reports or other materials relating to the youth's mental, physical, educational, trauma, and social history may also be considered by the Juvenile Court pursuant to Utah Code § 80-6-504(5). If a youth is transferred to the District Court, the jurisdiction of the Juvenile Court and the Division of Juvenile Justice and Youth Services is terminated regarding that offense, any other offense arising from the same criminal episode. Juvenile Court and the Division of Juvenile Justice and Youth Services regain jurisdiction if there is an acquittal, a finding of not guilty, or dismissal of all charges in the District Court.



## XII. PREMISE OF THE JUVENILE DISPOSITION GUIDELINES

The Juvenile Disposition Guidelines should provide information for the efficient determination of the factors that inform the disposition for all involved in the system: prosecutors, defense attorneys, youth, probation officers, case managers, judges, victims, and family members. All interested parties should have a general idea of a typical disposition in a case. This fosters equity in the system by promoting the practice of treating similarly situated youth similarly. However, there should be no concrete expectation that a recommended disposition will be the one actually imposed. The Juvenile Disposition Guidelines should also assist in managing current and future resources by serving as a predictive instrument. This approach brings more accountability to the entire system. At the same time, the Juvenile Disposition Guidelines need to preserve judicial discretion and individualized dispositions.

Although all participants involved in the system are encouraged to refer to the Juvenile Disposition Guidelines, only the recommending authority (court probation or JJYS) is mandated by statute to consider them: "When preparing a dispositional report and recommendation in a delinquency action, the probation department or other agency designated by the court shall consider the juvenile sentencing guidelines . . . and any other factors relevant to the disposition designated in the juvenile disposition guidelines." (Utah Code § 80-6-307(2)). As to the actual disposition, the Juvenile Disposition Guidelines is discretionary and does not bind the Juvenile Court. The Juvenile Disposition Guidelines includes a non-exhaustive list of factors to inform disposition (previously titled aggravating and mitigating circumstances) for consideration when deviation is appropriate. These can be found in Guide 2 and are referred to throughout this guide as factors that inform disposition. An analysis of the best interests of the child pursuant to the statutory purpose of the Juvenile Court may also occur.



## XIII. GUIDELINES AS A TOOL

Utah law provides the basis for the disposition of youth in the juvenile justice system. The Juvenile Disposition Guidelines is an attempt to help all parties efficiently identify the factors that will inform the disposition in a specific case. Utah's Juvenile Disposition Guideline is intended to maintain the desirable functions of judicial discretion and at the same time incorporate a rational criminal justice philosophy, eliminate unwarranted disparity, and provide a tool to match resources with needs. The Juvenile Disposition Guidelines, as structured, provide a forum for discussion regarding disposition and a common frame of reference on which to base discussion. Equally important, they provide a means for policymakers to assess the demand for resources.



## XIV. GLOSSARY

**Adjudication:** A finding by the court, incorporated in a decree, that the facts alleged in the petition are true and correct.

**AWOL:** A term used when a youth has left home or their court ordered placement for over 24 hours without permission of a parent, probation, or their JJYS case worker.

**Behavioral Analysis Worksheet (BAW):** A structured guide that helps a youth collect and connect their antisocial actions with their feelings and thoughts. As the analysis is repeated for other behaviors, a pattern of thinking may emerge.

**Cognitive Behavioral Therapy (CBT/CBT Program):** A treatment modality or program that focuses on the realignment of cognitive thought processes as well skill practice to assure the youth has the ability to apply what they've learned in treatment to real-life situations.

**Community Service Hours (CSHs):** A sanction given to youth where they are to work a specific number of hours without pay and is intended to give back to the community that has been harmed.

**Correctional Program Checklist (CPC):** A tool developed to assess correctional intervention programs, and is used to ascertain how closely correctional programs meet known principles of effective intervention. See [https://www.utcourts.gov/content/dam/courts/juv/ebp/docs/Utah\\_CPC\\_Overview\\_Presentation.pdf](https://www.utcourts.gov/content/dam/courts/juv/ebp/docs/Utah_CPC_Overview_Presentation.pdf)

**Court and Agencies' Record Exchange (CARE):** The Utah Juvenile Justice case management system. CARE is a system designed to be used by a wide variety of users and its purpose is to manage data throughout the entire process of involvement with the Juvenile Court. See eFiling in Juvenile Court, available at <https://www.utcourts.gov/efiling/juvenile/>.

**Court probation/probation officer:** An individual, employed by the court, who creates dispositional reports in accordance with the law and guidelines and supervises youth under a non-judicial adjustment or who have been placed on intake or formal probation at disposition.

**Criminogenic Need:** Areas that have shown to either lead to further delinquency if there are deficits or prevent further delinquency if there are strengths.

**Criminogenic Risk:** A level of risk (low, moderate, high), based on a validated assessment, that a youth is likely to engage in criminogenic behaviors in the future.

**Detention Hearing:** A review by the court, after a youth has been admitted in detention, to determine whether a youth can be returned home (with or without conditions) or if a youth needs to be continued to be held in detention.

**Detention (DT):** Home detention or secure detention for the temporary care of a youth.

**Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5):** A manual used by clinicians and researchers to diagnose and classify mental disorders.

**Dialectical Behavior Therapy (DBT):** A type of evidence-based type of cognitive behavioral therapy which tries to identify and change negative thinking patterns and pushes for positive behavioral changes.

**Disposition:** The consequences and services ordered for a youth after adjudication.

**Dispositional Report:** A written report by the probation officer relating to a youth's mental, physical, and social history as well



as assessment results and contains recommendations from the assigned probation officer based on their findings and in accordance with the Juvenile Disposition Guidelines to assist the juvenile judge in making an appropriate disposition.

**Division of Child and Family Services (DCFS):** The State agency responsible for youth after a finding of neglect, abuse or dependency.

**Division of Juvenile Justice and Youth Services (JJYS):** The State agency tasked with the responsibility of overseeing youth temporarily removed from the custody of their parents and ordered to out-of-home placements in order to address their criminogenic needs. JJYS is also responsible for oversight of youth incarceration.

**Evidence-based:** A program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

**Expungement:** The sealing or restriction of access to an individual's record held by the court or a government agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in juvenile court.

**Juvenile Justice Youth Services (JJYS) Case Manager:** An employee of JJYS who creates a case plan to address youth's criminogenic risk and needs and supervises youth placed in the custody of JJYS.

**Juvenile Justice Oversight Committee (JJOC):** A designated entity under the Utah Commission on Criminal and Juvenile Justice to oversee the implementation and evaluation of juvenile justice policies. The membership includes representation from the three branches of governments and from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

**Massachusetts Youth Screening Instrument (MAYSI-2):** A brief behavioral health screening tool designed especially for juvenile justice programs and facilities used to help identify urgent behavioral health needs.

**Nonjudicial or Nonjudicial Adjustment:** A referral to the court that has been closed by a probation officer without any proceedings before a judge.

**Order to Show Cause (OSC):** A motion filed with the court alleging that a youth has not followed a court order and asking the court to impose a consequence.

**Petition:** The formal document initiating a juvenile proceeding alleging that a youth is delinquent and describing the alleged offenses committed by that youth.

**Post-dispositional Review:** A hearing after disposition, typically 90 days after, to review a youth's compliance with orders made by the court.

**Pre-Screen Risk Assessment (PSRA):** A brief risk assessment tool designed to screen youth in the preliminary stages of involvement with the juvenile justice system and determine if additional assessment is needed.

**Probable Cause Review:** A review by a judge or magistrate, after a youth is admitted in detention, to determine whether there is a probable cause to establish that a crime has been committed, that the booked youth is the individual who committed the crime, and that the crime qualifies for admission under the JJYS guidelines.

**Protective and Risk Assessment (PRA):** An in-depth risk and needs assessment that examines a wide variety of factors related to the youth's strengths and challenges in different areas of criminogenic including delinquency history, school, employment, relationships, environment, historic and current family dynamics, alcohol and drugs, attitudes and behaviors, and skills.

**PTSD Screening Inventory (PSI):** A 15 question screening tool used to help identify youth who may have had exposure to a traumatic event and may be experiencing traumatic stress symptoms.

**Secure Care or Secure Facility:** A facility under the authority of JJYS that provides 24-hour supervision and confinement for youth.

**Sexual Behavior Risk Assessment (SBRA):** An assessment, for youth over the age of 12, focusing on the underlying motivations for a youth's sexual misconduct and the youth's needs that are not being met. For more information, visit <https://www.nojos.net/wp-content/uploads/2021/10/Juvenile-Sex-Specific-Assessment-Protocol-and-Standards-Final.pdf>

**Urinalysis (UA):** A test of a youth's urine to detect the use of drugs and/or alcohol.

**Youth Parole Authority (YPA):** The State authority responsible for implementing secure care time lengths for youth, granting paroles, parole terms, and determining sanctions for parole violations.



## XV. JUVENILE DISPOSITION GUIDES

### GUIDE 1 – JUVENILE DISPOSITION

Upon adjudication, the Juvenile Court may place a youth on intake or formal probation, order fines, community service hours, or restitution, and may make other orders to address risks and needs as determined by validated assessments. An order for temporary custody and guardianship with JJYS shall only be ordered if:

- Nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and
- The youth is adjudicated under § 80-6-701 of:
  - » A felony offense;
  - » A misdemeanor when the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or
  - » A misdemeanor involving the use of a dangerous weapon as defined by Utah Code § 76-1-101.5(7).

An order placing a youth on intake or formal probation or in the custody of JJYS is time limited. The following presumptive time frames apply to court ordered home and out of home placements:

- Intake probation – may not exceed three months;
- Formal probation – may not exceed four to six months;
- JJYS out-of-home placement – may not exceed three to six months;
- JJYS aftercare supervision – may not exceed three to four months.

The time frames may be extended if one of the following circumstances exists:

- Termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under §80-6-606;
- A new misdemeanor or felony offense has been committed;
- Community or compensatory hours have not been completed (extension limitations apply per § 80-6-712(6);
- There is an outstanding fine; or
- Restitution has not been paid in full (extension limitations apply per § 80-6-712(7)).

These time frames also do not apply to dispositions for the following offenses:

- Aggravated assault resulting in serious bodily injury to another;
- Aggravated murder or attempted aggravated murder;
- Murder or attempted murder;
- Manslaughter;
- Negligent homicide;
- Automobile homicide;
- Automobile homicide involving handheld wireless communication device;
- Child abuse homicide;
- Homicide by Assault;
- Aggravated kidnapping;
- Aggravated sexual assault;
- A felony violation of aggravated arson;
- Aggravated burglary;

- Aggravated robbery;
- Felony discharge of a firearm;
- An offense involving a dangerous weapon as defined in Utah Code § 76-1-101.5(7) that is a felony, and the youth has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon; or
- A felony offense and the youth has previously been committed to JJYS for secure care.

The Juvenile Court may also order a youth to detention or an alternative to detention. An order for detention, or alternative to detention, may not exceed 30 cumulative days per adjudicated offense, including time spent in detention pre-adjudication. A detention order after adjudication for an order to show cause may not exceed 72 hours, excluding weekends and legal holidays. In addition, the Juvenile Court may not order a youth to detention for any of the following reasons:

- A probation violation;
- Failure to pay a fine, fee, restitution, or other financial obligation;
- Unfinished compensatory or community service hours;
- An infraction; or
- A status offense.

The Juvenile Court may order a youth to secure care if the court finds:

- The youth poses a risk of harm to others; or
- The minor's conduct resulted in the victim's death; and
- The youth is adjudicated for:
  - » A felony offense;
  - » A misdemeanor and the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or
  - » A misdemeanor involving the use of a dangerous weapon as defined in Utah Code § 76-1-101.5(7).



## GUIDE 2 – FACTORS THAT INFORM DISPOSITION

It is critical to the Juvenile Disposition Guidelines to preserve judicial discretion and individualized dispositions. There may be circumstances where deviation from the guidelines or statutory presumptions are recommended. The following are some of the more common factors considered when a deviation occurs. Any recommendation by probation or JJYS should list the considered factors when a recommendation is made outside of the guidelines or statutory scheme. Bases for deviations from the guidelines and presumptions should be documented by the court. The listed factors are suggestions only; they do not constitute all of the factors that may be considered.

1. Impact of Offense on Victim and Community:
  - a. Monetary damage (none, little, some, substantial, etc.);
  - b. Physical or psychological injury to victim (none, little, some, substantial, etc.);
  - c. Has there been prior offenses against the victim by the youth?
  - d. Did the youth know the victim was particularly vulnerable?
2. Amenability with Lesser Sanctions:
  - a. The youth has demonstrated a cooperation with less restrictive sanctions (been no opportunity; none; little, some, substantial, etc.);
  - b. The youth has complied with prior probation or court orders (none, few, some, all, etc.);
  - c. Other considerations based on non-judicial actions;
  - d. The youth has previously been placed on or qualified for a higher sanction.
3. Attendance or Participation in Educational and Treatment Programs:
  - a. Does the youth attend or participate in school or other appropriate educational or vocational programs?
  - b. Does the youth attend or participate in treatment programs?
4. Significant Improvement Since the Offense:
  - a. The youth has demonstrated significant improvement since the time of the offense;
  - b. The youth has voluntarily sought treatment;
  - c. The youth compensated or made a good faith effort to compensate victim.
5. Physical/Mental Impairment:
  - a. The youth, because of diagnosed physical or mental impairment, lacked substantial capacity for judgment when the offense was committed; or
  - b. The youth is intellectually disabled as demonstrated by all of the following:
    - i. The youth is significantly sub-average in general intellectual functioning (usually interpreted as an IQ score of 70 or less);
    - ii. The youth demonstrates deficits in adaptive behavior (has insufficient life skills to get along without constant assistance from others); and
    - iii. The youth manifested the above handicaps during the developmental period. The voluntary use of intoxicants does not fall within the purview of this category.
6. Age and Maturity of the youth:
  - a. Is the youth old enough or mature enough to fully understand the impact or nature of the delinquent conduct?
7. Current Status:
  - a. The youth is currently in an appropriate level of treatment or supervision.
8. Trauma History:<sup>1</sup>
  - a. Does the youth have a history of trauma as reported by themselves, parents, state agency (i.e. JJYS or DCFS) or a validated assessment.
  - b. Is the youth experiencing trauma reactions as reported by themselves, parents, state agency (i.e. JJYS or DCFS) or a validated assessment.
9. Bias: Evidence of improper bias impacting a specific case should be considered.
10. Other (specify)

<sup>1</sup> See pages 9-10 for further explanation of trauma and trauma responses.

## GUIDE 3 - PRESUMPTION FOR COMMUNITY SERVICE HOURS

According to Utah Code § 80-6-709(4) the presumption for community service hours (CSHs) is 5 CSHs to 10 CSHs (\$36.25 to \$72.50).

Recognizing the rehabilitative nature of the juvenile justice system, as well as the unique needs of children, the Utah Legislature passed legislative presumptions for community service and capped the amount of community service hours and/or fines that could be ordered per episode based on the age of a youth; **24 CSHs or \$190 fine for youth age 15 and under and 36 CSHs or \$280 fine for youth 16 years and older.**

When making community service hour /fine recommendations or orders probation and judges should consider the following factors:

- Age of the youth;
- Presumptive time frame of supervision;
- Delinquency history;
- Seriousness of the episode;
- Intellectual capability or capacity;
- Amount of time youth spends in school each week;
- Amount of time youth spends engaged in pro-social activities;
- Amount of time youth spends in court ordered treatment;
- Employment status;
- Responsibilities youth has for his/her family; and
- Availability of community service options (may be less for younger youth or during pandemic).

This list is not intended to be exhaustive but is an example of factors to consider when deviating from the presumptive guidelines. A youth's individual family circumstances should also be considered. For example, often a youth's employment status is used to increase the presumptive fine. However, this can often be detrimental for youth who are helping to provide for the necessities of their family. Because the purpose of juvenile court is rehabilitation, employment status should not necessarily be used to increase the amount of fine given; especially for youth who are helping to pay rent, utilities, food costs, or other costs of living expenses for their families. Research has shown, that costs and fees in general, as well as the amount of costs and fees owed, significantly increase the likelihood of recidivism. See Piquero & Jennings, 2016.



## XVI. JUVENILE DISPOSITION TOOLS

### TOOL 1- INCENTIVES MATRIX

**STEP 1:** Identify the youth's level of compliance and/or accomplishment. The Beginning focuses on incentives when the youth is meeting expectations with their compliance toward their court orders/obligations. The Intermediate focuses on the youth's behavior change among the eight criminogenic factors: Antisocial Behavior, Antisocial Personality, Antisocial Attitude, Antisocial Peers, School and Work, Leisure and Recreation, Substance Abuse, and Family. The Advanced focuses on acknowledging behavior when the youth identifies competence in skills and abilities to refrain from getting into trouble and reducing their risk factors.

<b>Beginning</b> Accountability and Compliance	<b>Intermediate</b> Evidence Based/Case Planning	<b>Advanced</b> Demonstrates Competence and Reduction of Risk
<ul style="list-style-type: none"><li>• Attending scheduled appointments</li><li>• Avoiding persons possessing, using, and/or selling drugs/ alcohol</li><li>• Completed community service hours</li><li>• Complying with curfew, home restrictions, or house arrest</li><li>• Enrolled in school and/or program</li><li>• Following home rules</li><li>• Following rules/direction of your court worker</li><li>• Made payments toward restitution and/or fines</li><li>• Negative UA results</li><li>• Refrained from possessing a dangerous weapon</li><li>• Refrained from staying out overnight</li><li>• Submitted photo, fingerprint, and DNA</li><li>• Completed BAW assignment</li><li>• Wearing neutral clothing (non-gang/drug/alcohol)</li><li>• Other</li></ul>	<ul style="list-style-type: none"><li>• Achieving a higher level in a program</li><li>• Active participation in therapy/ counseling</li><li>• Associating with positive peers</li><li>• Avoiding negative peers</li><li>• Completion of a Carey Guide/BIT</li><li>• Creating case plan goals</li><li>• Engaging with family</li><li>• Good grades and/or attendance</li><li>• No contact with victim</li><li>• Engaging in pro-social activities</li><li>• Positive reports from collateral agencies</li><li>• Taking prescription medications</li><li>• Thinking about consequences before acting</li><li>• Time free of non-compliant behavior</li><li>• Practiced skill with probation</li><li>• Displayed use of skill with probation/intervention</li><li>• Other</li></ul>	<ul style="list-style-type: none"><li>• Accomplishing a case plan goal</li><li>• Continuation in a pro-social activity</li><li>• Displaying appreciation for others</li><li>• Express genuine remorse</li><li>• Finding employment/remaining employed</li><li>• Graduating from High School/ obtaining GED</li><li>• Identifies and works with support system</li><li>• Initiating meetings with others (school/probation/programs)</li><li>• Leadership role for pro-social activities/events</li><li>• Membership in a positive organization</li><li>• No referrals for delinquent/ non-compliant behavior</li><li>• Positively contributing to family/ home</li><li>• Successfully completing a program</li><li>• Consistently using skills learned to deal with situations</li><li>• Other</li></ul>

**STEP 2:** Reward the youth with a proportionate incentive for their identified level of compliance/accomplishment outlined below or as identified by the youth. Incentives should be awarded promptly. The list below provides examples of suggested responses; it is not all-inclusive. Award the youth with the incentive that will have the most impact on pro-social behavior. Please note, probation should collaborate with the youth’s family and community agencies working with the youth to determine what rewards/incentives they may contribute. (\*May require court action)

Level 1 Response	Level 2 Response	Level 3 Response
<ul style="list-style-type: none"> <li>• Candy bar, soda, chips etc. (\$1-2.00)</li> <li>• Allow special supervised outing</li> <li>• Credit toward community service hours*</li> <li>• Earned free time with pro-social peers</li> <li>• Permission to attend/participate in a community event</li> <li>• Recognition by PO/parent/school</li> <li>• Reward coupon or punch on a punch card</li> <li>• Transportation access/credit/ passes</li> <li>• Verbal praise to youth and/or parent</li> <li>• Other incentive individualized to youth</li> </ul>	<ul style="list-style-type: none"> <li>• Gift card (\$4-6.00) to movies, stores etc.</li> <li>• Allow an overnight with approved friend</li> <li>• Apply community service hours toward restitution*</li> <li>• Extend curfew</li> <li>• Hold an appointment by phone</li> <li>• Reduction in supervision</li> <li>• Recognition given in Court</li> <li>• Reduce time on home restriction/ house arrest</li> <li>• Reduction in community service hours*</li> <li>• Reduce frequency of drug testing</li> <li>• Storyboard/wall of fame/ fish bowl raffle</li> <li>• Other incentive individualized to youth</li> </ul>	<ul style="list-style-type: none"> <li>• Gift card (\$8-10.00) to movies, food establishments, stores, etc.</li> <li>• Allow youth to have input on probation appointments</li> <li>• Early Discharge*</li> <li>• Graduation ceremony</li> <li>• Invitation to monthly recognition ceremony</li> <li>• Letter of support/job recommendation</li> <li>• Modification of probation terms*</li> <li>• Waiving/reducing fines*</li> <li>• Other incentive individualized to youth</li> </ul>

\*may require court action

**STEP 3:** Document the accomplishment and the incentive awarded to the youth in CARE and court reports.

## TOOL 2- NON-COMPLIANT BEHAVIOR MATRIX

STEP 1: Determine the seriousness of the current non-compliant behavior: Minor; Medium; Serious.

Minor (Lapse in judgment)	Medium (Multiple minor violations with no response to consequences)	Serious (Ongoing, willful disregard of expectations)
<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behaviors</li> <li>• Curfew violation (PO notified by parents)</li> <li>• Failed to attend school/work</li> <li>• Failed to complete community service/restitution/Fines</li> <li>• Failed to comply with PO directives</li> <li>• Failed to contact PO</li> <li>• Failed to enroll in treatment/program</li> <li>• Failed to notify PO about police contact</li> <li>• Missed appointment with treatment/program</li> <li>• Use of illegal substances (parent/guardian report)</li> </ul>	<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Curfew/home restriction/truancy violation</li> <li>• Failure to contact PO</li> <li>• Failure to notify PO about police contact</li> <li>• Failure to attend school/work</li> <li>• Failure to complete community service/restitution</li> <li>• Failure to comply with PO directives</li> <li>• Failure to return home overnight</li> <li>• Missed appointments with required program/treatment/skill provider</li> <li>• Non-compliant with program (suspension)</li> <li>• Positive UA/failure to submit</li> <li>• Physical violence/aggressive behavior (no injury)</li> </ul>	<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behaviors</li> <li>• Curfew/home restriction/habitual truancy</li> <li>• Failure to contact PO</li> <li>• Failure to notify PO about police contact</li> <li>• Failure to complete community service/restitution</li> <li>• Failure to return home overnight/AWOL</li> <li>• Multiple missed appointments with required program/treatment/skill provider</li> <li>• Non-compliant with program/intervention</li> <li>• Positive UA/failure to submit/adulteration to sample</li> <li>• Physical violence/aggressive behavior (injury)</li> <li>• Physical violence/aggressive behavior (no injury)</li> <li>• Unsuccessful discharge from program/intervention for lack of attendance/participation/behavior</li> </ul>

**STEP 2:** Using the youth's risk level (determined from PSRA) and the seriousness of the non-compliant behavior determined in Step 1, use the table below to determine the presumptive response (Level 1, 2, or 3). In determining whether or not to decrease/increase the presumptive response, the following factors should be considered: impact on victim; impact on the community; and if the violation is consistent with the youth's pattern of behavior.

	Low	Moderate	High
Minor	1	1	2
Medium	1	2	3
Serious	2	3	3

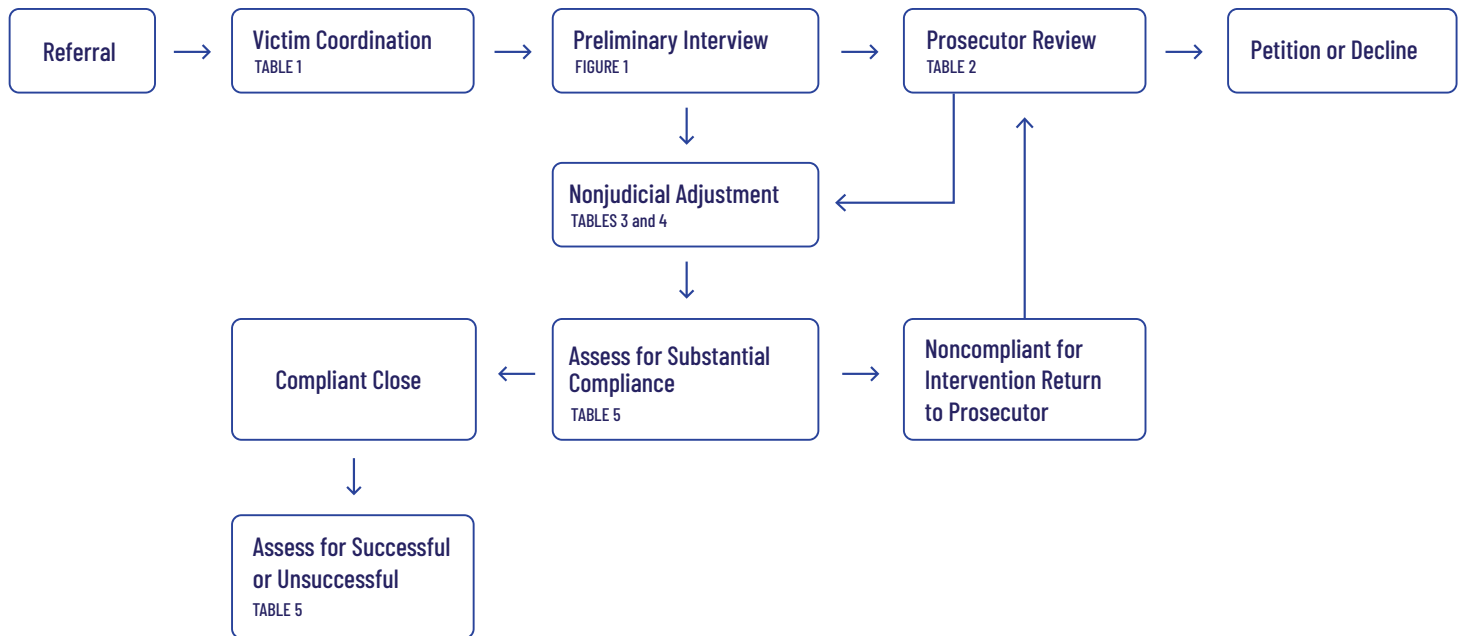
**STEP 3:** Use the information from Step 1 and 2 to determine the appropriate level of response. Use the least restrictive response for the desired behavioral change utilizing the principles of risk, need, and responsivity. Responses to violations by low risk youth are preferably handled through school and/or parent consequences, and should involve minimal contact with the juvenile system. If there is an increase in restrictions, such as in drug testing, case contacts, community service hours, or other restrictions, the increase should be the least restrictive, in amount or duration, to achieve the desired outcome. The determined response should be applied promptly. (\* Indicates response that may require court action)

Level 1 Response	Level 2 Response	Level 3 Response
<ul style="list-style-type: none"> <li>Carey Guides/BITS/NCTI/Decisional Balance Sheet</li> <li>Curfew or home restriction(s)</li> <li>Service in the community</li> <li>Increase contact/Motivational Interview</li> <li>Increased frequency of drug testing (as needed)</li> <li>Letter/essay/homework assignment</li> <li>Letter of apology</li> <li>Problem-solving session with PO</li> <li>Restriction of activities/privileges</li> <li>Review case plan</li> <li>School monitoring sheets</li> <li>School/parent/guardian consequences</li> <li>Verbal or written warning</li> </ul>	<ul style="list-style-type: none"> <li>Any Level 1 responses that are appropriate</li> <li>Community service/fines*</li> <li>Develop behavioral plan with school</li> <li>Home restriction/day reporting</li> <li>In-court review hearing</li> <li>Increase frequency of treatment</li> <li>Increase of special programming such as ART/NCTI</li> <li>Mental health/substance abuse assessment</li> <li>No Contact Directive*</li> <li>Staff with others</li> <li>Work crew for completion of hours/structure</li> </ul>	<ul style="list-style-type: none"> <li>Any Level 1 or Level 2 responses that are appropriate</li> <li>Intensive outpatient or inpatient treatment*</li> <li>Multi-agency staffing/community-based placement*</li> <li>Order to Show Cause/Contempt*</li> <li>Re-assess risk/needs and create new case plan</li> <li>Specialty Court*</li> </ul>

\*may require court action

**STEP 4:** Document the non-compliant behavior and identified response in CARE and court reports. If needed, complete a re-assessment and incorporate needed changes in the case plan.

## TOOL 3 – UTAH JUVENILE COURT: NONJUDICIAL ADJUSTMENT PROCESS<sup>2</sup>



**TABLE 1. VICTIM COORDINATION PROCEDURES NONJUDICIAL ADJUSTMENT**

Probation Shall	<ul style="list-style-type: none"> <li>• Provide initial notice to reasonably identifiable and locatable victims of the offense contained in the referral, within seven days of receiving the referral. [80-6-304(2)(a)]</li> <li>• The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available. [80-6-304(2)(c)]</li> <li>• Base restitution on the ability of the minor's family to pay as determined by a statewide sliding scale [80-6-304(4)(b)]</li> </ul>
Victim Shall	<ul style="list-style-type: none"> <li>• Provide upon request invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out of pocket loss. [80-6-304(2)(b)(i)]</li> <li>• Provide documentation and evidence of compensation or reimbursement from insurance companies or agencies of Utah, or any other state or federal government received as a direct result of the crime for injury, loss of earnings, or out of pocket costs. [80-6-304(2)(b)(ii)]</li> <li>• Provide proof of identification, including home and work address and telephone numbers. [80-6-304(2)(b)(iii)]</li> </ul>
Victim/Offender Mediation	<ul style="list-style-type: none"> <li>• Victim/Offender mediation may be offered in a nonjudicial adjustment as a way to settle restitution disputes for victim impact purposes or if requested by the victim. [80-6-304(1)(g)]</li> <li>• Mediation is voluntary for the victims at any stage of the mediation process.</li> </ul>

<sup>2</sup> If a statute of limitations has expired on a particular incident, the juvenile court no longer has jurisdiction.

FIGURE 1. ELEMENTS OF THE PRELIMINARY INTERVIEW PROCESS



TABLE 2. REFER TO PROSECUTOR FOR SCREENING AND REVIEW

REQUIRED - OFFENSE	OPTIONAL - OFFENSE & RISK	REQUIRED - PROCEDURAL
<ul style="list-style-type: none"> <li>Any felony [80-6-303.5(8)(a)(i)]</li> <li>Class A, B, C-Unlawful adolescent sexual activity [76-5-401.3]</li> <li>Driving under the influence pursuant to 41-6a-502 [80-6-404.5(8)(a)(ii)]</li> <li>Threat of violence pursuant to 76-5-107 [80-6-303.5(8)(a)(ii)(B)]</li> <li>Threats against school officials pursuant to 76-5-107.1 [80-6-303.5(8)(a)(ii)(C)]</li> <li>Reckless endangerment creating a substantial risk of death or serious bodily injury pursuant to 76-5-112 [80-6-303.5(8)(a)(ii)(D)]</li> <li>Negligent Homicide pursuant to 76-5-206 [80-6-303.5(8)(a)(ii)(E)]</li> <li>Sexual Battery pursuant to 76-9-702.1 [80-6-303.5(8)(a)(ii)(F)]</li> <li>Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises pursuant to 76-10-505.5 [80-6-303.5(8)(a)(ii)(G)]</li> <li>Threatening with or using a dangerous weapon in fight or quarrel pursuant to 76-10-506 [80-6-303.5(8)(a)(ii)(H)]</li> <li>Possession of a deadly weapon with criminal intent pursuant to 76-10-507 [80-6-303.5(8)(a)(ii)(I)]</li> <li>Possession of a dangerous weapon by a minor, pursuant to 76-10-509 [80-6-303.5(8)(a)(ii)(J)]</li> <li>The minor has a current suspended order for JJYS custody [78A-6-602(6)(b)]</li> </ul>	<ul style="list-style-type: none"> <li>Probation officers may request that the prosecutor review the referral based on the results of the risk assessment if:               <ul style="list-style-type: none"> <li>If the youth is high risk [80-6-303.5(3)(a)(ii)(A)]</li> <li>The youth is moderate risk and the referral is for a Class A offenses against person under Title 76, Chapter 5 or for miscellaneous provisions under Title 76, Chapter 9, Part 7 [80-6-303.5(3)(a)(ii)(B)].</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>If the <b>youth</b> is not offered or declines a nonjudicial adjustment [80-6-304.5(1)(c)]</li> <li>If the youth fails to respond to probation's inquiry after being provided with notice for the preliminary interview [80-6-304.5(5)(b)(iv)]</li> <li>If the youth fails to substantially comply with the conditions agreed upon in the nonjudicial adjustment [80-6-304.5(1)(b)]</li> <li>If it is necessary to determine legal sufficiency to proceed or to petition the referral; if the minor cannot be located; or for any other reason outlined in statute mentioned above. [Probation Policy 2.3- Case and Referral Transfers]</li> </ul> <p>Note: Per statute, any youth under the age of 12 years who is referred for any offense other than those identified in Subsection 80-6-303.5(8)(b) will be offered a nonjudicial adjustment. Such cases will only be screened by a prosecutor if the minor declines or fails to substantially comply with a nonjudicial adjustment.</p>



## NONJUDICIAL ADJUSTMENTS

- In certain circumstances, a nonjudicial adjustment **must** be offered to a youth. Except for an offense not eligible for a non-judicial adjustment under 80-6-303.5(8), a juvenile probation officer shall offer a nonjudicial adjustment to a minor if the minor:
    - » Is referred for a misdemeanor, infraction or status offense. [80-6-303.5(4)(a)(i)], **and**
    - » Has no more than two prior adjudications [[80-6-303.5(4)(a)(ii)], **and**
    - » Has no more than two prior unsuccessful nonjudicial attempts [80-6-303.5(4)(a)(iii)]; or
    - » Is referred for an offense that is alleged to have occurred before the youth was 12 years old [80-6-303.5(4)(b)], or
    - » Is referred for being a habitual truant [80-6-303.5(4)(c)]
  - A youth may not be denied an offer of nonjudicial adjustment due to an inability to pay a financial penalty. [80-6-304(4)(a)]
  - Acceptance of an offer of a nonjudicial adjustment may not be predicated on an admission of guilt. [80-6-304(3)]
  - The court's probation department shall offer the youth one nonjudicial adjustment for all offenses arising from the single criminal episode. [80-6-303.5(2)]. Episode is defined as *a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single criminal objective.*<sup>iii</sup> [76-1-401]
  - Probation officers shall offer the youth/family non-agreement resources based on screening tool results [e.g., PSRA & MAYSI-2] or stability concerns.
  - If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if: the minor allegedly committed the same offense on school property on a previous occasion; and the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described below for the previous offense [53G-8-211(4)]:
    - » A mobile crisis outreach team;
    - » A youth services center, as defined in Section 80-5-102;
    - » A certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;
    - » An evidenced-based alternative intervention created and developed by the school or school district;
    - » An evidenced-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services; or
    - » A tobacco cessation or education program if the offense is a violation of Section 76-10-105;
    - » Truancy mediation; or
    - » Prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice and Youth Services if the youth refuses to participate in any of the above interventions [53G-8-211(8)(c)]
- School referrals must include attendance records for the youth, a report of evidence-based alternative interventions used by the school before the referral, including outcomes, the name and contact information of the school representative assigned to actively participate in the court process with the youth and the youth's family, a report from the Division of Juvenile Justice Services that demonstrates the youth's failure to complete or participate in prevention and early intervention youth services and any other information that the school district or school considers relevant. [53G-8-211](7)(c).
- If the court receives a referral for an offense that occurred before a youth was 12 years old, probation must offer a nonjudicial adjustment unless the offense is identified in the Transfer Statute. A petition can be filed for a youth younger than 12 years old if the youth was offered a nonjudicial adjustment and the youth declines or fails to substantially comply with it.
    - » If the nonjudicial adjustment was for a sexual offense committed before the youth was 12 years old, the court may extend the nonjudicial period beyond the 180 day timeline if the judge finds that specific treatment is needed for the offense, the treatment cannot be completed within the 180 day timeline **and** treatment is necessary based on a developmentally appropriate clinical assessment. 90 day extensions can be granted without limit as long as conditions are met.
    - » Please refer to the Quality Assurance Plan for youth that offend sexually.

**Table 3 outlines the required responses and recommended considerations for nonjudicial adjustments.**

### TABLE 3. RESPONSES AND INTERVENTIONS FOR NONJUDICIAL ADJUSTMENTS

The responses and interventions offered in a nonjudicial adjustment are largely determined by risk level. For minors determined to be at **moderate** or **high** risk of reoffending, probation officers will collaborate with the minor and minor's parent(s) or guardian(s) to develop a case plan and complete interventions to address criminogenic risk factors.

A nonjudicial adjustment may include restitution, financial penalty, community or compensatory service, counseling or treatment, specified restrictions on activities or associations, mediation, or any reasonable action that is in the interest of the minor, the community, or the victim. [80-6-304]

REQUIRED RESPONSES - OFFENSE SPECIFIC	RECOMMENDED CONSIDERATIONS
<ul style="list-style-type: none"> <li>• <b>Referrals with Restitution:</b> A sliding scale is required if restitution is included in the nonjudicial agreement. A minor could stipulate to a higher restitution amount through Victim Offender Mediation</li> <li>• <b>School-Based Offenses:</b> A referral for a school-based offense must meet the criteria outlined in Utah Code 53G-8-211(4) for school-based offenses, including that the minor was referred to an evidence-based intervention for an offense on at least one prior occasion.</li> <li>• <b>Truancy:</b> If a minor is alleged to be a habitual truant, a school may refer a minor only if the minor was previously alleged of being a habitual truant at least twice during the same school year, and the minor was referred to an evidence-based alternative for at least two previous habitual trancies. Truancy may only be handled non-judicially. [53G-8-211(5), 80-6-303.5(4)(c), and 80-6-304.5(2)(b)]</li> </ul>	<ul style="list-style-type: none"> <li>• Probation is strongly encouraged to close any first-time status offense or infraction using the "NJ Counseled/ Warned" option from the NJ Agreement. This option should also be considered for low-risk minors referred for first time Class C or Class B Misdemeanor offenses that are not person offenses or offenses with restitution. Probation should consider mediation.</li> <li>• Truancy mediation is a recommended evidence-based intervention that is available for minors under the jurisdiction of the Juvenile Court and for minors referred directly by a school. Victim Offender Mediation is an option for referred minors if requested by the victim. [80-6-304]</li> <li>• Probation should consider a no-contact condition if requested by the victim or if determined to be necessary by probation.</li> </ul>

## TABLE 4. FINES AND COMMUNITY SERVICE HOURS

AGE OF OFFENSE	FINES AND COMMUNITY SERVICE HOURS
<p><b>16 AND ABOVE</b></p> <p>For youth 16 years old and above, the presumption is that a fine would be assessed, unless the community service hours would be more appropriate.</p>	<p><b>Fine:</b> Up to \$72.50 based on the sliding fee scale (while the statute allows fines up to \$250, probation practice is to keep fines within disposition guideline amounts).</p> <p><b>– OR –</b></p> <p><b>Community Service Hours:</b>            Felony: 5 - 10 hours            Class A Misdemeanor and above: 4-9 hours            Class B Misdemeanor: 3-9 hours            Class C Misdemeanor/Status/Infractions: 3-8 hours</p>
<p><b>UNDER 16</b></p> <p>For youth under the age of 16, the presumption is that community service hours would be assessed in lieu of the fine, unless a fine would be more appropriate.</p>	<p><b>Community Service Hours:</b>            Felony: 5 - 10 hours            Class A Misdemeanor and above: 4-9 hours            Class B Misdemeanor: 3-9 hours            Class C Misdemeanor/Status/Infractions: 3-8 hours</p> <p><b>– OR –</b></p> <p><b>Fine:</b> Up to \$72.50 based on the sliding fee scale (while the statute allows fines up to \$250, probation practice is to keep fines within disposition guideline amounts).</p>
<p><b>BELOW POVERTY/YOUTH IN JJYS AND DCFS CUSTODY</b></p>	<p><b>Community Service Hours:</b>            Felony: 5 - 10 hours            Class A Misdemeanor and above: 4-9 hours            Class B Misdemeanor: 3-9 hours            Class C Misdemeanor/Status/Infractions: 3-8 hours</p>
<ul style="list-style-type: none"> <li>Any deviation from the guidelines above must be staffed with the supervisor or chief.</li> <li>Except for the youth in row 3, Probation Officers have discretion on whether a fine or CS hours are assessed based on the circumstances, appropriateness (e.g. age), and the unique needs and preferences by the youth and family.</li> <li>Probation has discretion in reducing the assessed fine or hours as an incentive for moderate / high risk youth to complete other NJ components. Probation Officer may discuss incentives and ways for youth to earn a reduction in fine or hours during the NJ process.</li> <li>The NJ will be closed as Unsuccessful if the minor fails to complete their fine or hours. The referral will be forwarded to the prosecutor for screening only when there is unsubstantial compliance with another NJ condition such as an intervention (see Table 5).</li> </ul>	

**TABLE 5. COMPLIANCE, SUBSTANTIAL COMPLIANCE AND SUCCESSFUL / UNSUCCESSFUL NONJUDICIAL ADJUSTMENTS**

<ul style="list-style-type: none"> <li>• Probation officers shall utilize the Behavioral Matrices to provide incentives for progress towards the youth's goals/obligations and to address non-compliant behavior/lack of progress prior to determining that a youth has been unsuccessful with their nonjudicial adjustment</li> <li>• If the youth and family have not been able to complete their fine within the first 90 days, the probation officer may file an extension for an additional 90 days.</li> </ul>	
<b>SUBSTANTIAL COMPLIANCE</b>	<ul style="list-style-type: none"> <li>• 100% completion of sliding scale restitution</li> <li>• 100% completion of no contact conditions</li> <li>• Substantial compliance for interventions will be determined by intervention standards</li> <li>• Participation in truancy mediation (pre-meeting)</li> <li>• Participation in pre-meeting for victim/offender mediation (Unless the victim declines to participate)</li> <li>• Developed a case plan (100%) and attended 75% of meetings with probation</li> </ul> <p>If the minor fails to substantially comply with the conditions agreed upon in the nonjudicial adjustment, the referral shall be sent to the prosecutor for screening [80-6-304.5(1)(b)]</p>
<b>SUCCESSFUL</b>	Completion of 100% of the terms and conditions of the nonjudicial adjustment or modified adjustment
<b>UNSUCCESSFUL</b>	Completion of less than 100% of the terms and conditions of the nonjudicial adjustment or modified adjustment <sup>[i]</sup>

[i] See Probation Practices for Determining Nonjudicial Restitution , Addendum to Probation Policy 2.4, Nonjudicial Adjustment and Probation Policy 3.1,Victim Outreach and Response.

[ii] A nonjudicial attempt should only be counted once per episode.

[iii] For information purposes, CARE identifies an episode based upon: (1) the referral number; (2) the law enforcement agency; and (3) the incident date. If there is not a referral number then it would be considered a separate episode. The probation officer should review the facts alleged to determine the appropriate number of episodes, and not rely solely on CARE.

[iv] A school representative appointed may not be a school resource officer. [53G-8-211] All required information should be included in the school based referral to ensure that necessary criteria is met. If the facts do not allege a refusal to participate or if reasonable efforts to engage the school in the process have failed, the probation officer should staff the case with the supervisor/chief to determine whether an RET closure is appropriate.

[v] 80-6-304(4)(b).

[vi] 80-6-304(4)(b).

[vii] 80-6-304(1)(g).

[viii] If a minor violates Section 41-6a-502, the minor shall: undergo a drug and alcohol screening; if found appropriate by the screening, participate in an assessment; and if warranted by the screening and assessment, follow the recommendations of the assessment. [78A-6-602(5)(b).

[ix] 80-6-304(1)(c) Although limited community service hours are allowed, nonjudicial agreements for Habitual Truancy referrals should focus on remedies to attendance issues, as opposed to consequences.

[x] The probation officer should include the following statement when requesting a case plan as part of the nonjudicial agreement. " @youth's name will develop a case plan with probation, meet with probation as directed and participate in case plan goals."

[xi] [53G-8-211(3)(b) and [53G-8-211(5).

[xii] [80-6-304(1)(h)].

## **TOOL 4 - EXPUNGEMENT**

Records under control of the court or government agency relating to a nonjudicial adjustment or an adjudication of an offense in juvenile court may be expunged.

### **RECORD CONTAINING ADJUDICATION**

A record containing an adjudication may be expunged pursuant to Utah Code § 80-6-1004. In order to qualify for an expungement: 1) the petitioner must be at least 18 years of age; 2) one year has passed from the date of termination of court jurisdiction or unconditional release from secure care confinement; 3) the petitioner must not have been convicted of a violent felony as defined in Utah Code § 76-3-203.5 within 5 years before the date of filing; 4) there must be no pending delinquency or criminal proceedings against the petitioner; and restitution, including a judgment, must have been satisfied. A record containing an adjudication for aggravated murder or murder cannot be expunged. The petitioner must also submit an original criminal history report obtained from the Bureau of Criminal Identification in accordance with Utah Code § 53-10-108. A hearing before the court is also required.

### **RECORD SOLELY CONSISTING OF NONJUDICIAL ADJUSTMENT(S)**

A record consisting solely of nonjudicial adjustments may be expunged pursuant to Utah Code § 80-6-1004.278A-6-1504. In order to qualify for an expungement: 1) the petitioner must be at least 18 years of age; and 2) the individual's juvenile record is not eligible for automatic expungement. The juvenile court may not grant a petition and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner; or the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record. The petitioner does not need to submit an original criminal history report and a hearing is not required.

### **SERVICE**

The juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record. An individual who is the subject of an expungement order may deliver copies of the expungement order to any affected agency or official identified in the juvenile record [80-6-1006.1(3)].

### **AGENCY DUTIES**

An agency receiving an expungement order must expunge all records described in the expungement order. The agency must also provide the petitioner, or the petitioner's attorney, with an affidavit confirming compliance with the expungement order.

### **FEES**

The court may charge a filing fee for expungement. However, the court may not charge a fee for certified copies of an expungement order. Also, an agency may not charge a fee to comply with an expungement order.

CRIMINOGENIC NEEDS	TREATMENT TARGETS
<u>Pro-delinquent Personality Pattern</u> Impulsive, adventurous, sensation seeking, risk taking, restless/aggressive, manipulative, exploitive, egocentrism, weak problem solving, self-regulation and coping skills.	Increase skills related to self-control and delayed gratification, anger and conflict management, and problem solving. Reinforce pro-social, reciprocal interpersonal interactions. Teach, model, and reinforce pro-social alternative behaviors
<u>Pro-delinquent Attitudes/Cognition</u> Values, beliefs, feelings, and cognition patterns that contribute to a personal identity that favors and reinforces delinquent behavior.	Address cognitive distortions and rationalizations that support maintaining delinquent identities. Build, practice, and reinforce new cognitions and attributions that lead to positive outcomes through cognitive restructuring and cognitive-behavior therapies. Increase pro-social behaviors by reinforcing pro-social beliefs that supporting a delinquency-free lifestyle.
<u>Pro-delinquent Peers</u> Preferring to associate with pro-delinquent peers and isolating from pro-social peers and social contexts.	Reduce and eliminate association with delinquent peers and teach, model and reinforce skills related to identifying and associating with pro-social peers as well as refusal skills when presented with high-risk situations by pro-delinquent peers. Increase opportunities for regular association with adults who support and model pro-social behavior (such as religious leaders or sports/club leaders).
<u>Family</u> Criminality and a variety of psychological problems in the family of origin including low levels of affection, caring and cohesiveness, poor parental supervision and discipline, support of pro-delinquent behavior and outright neglect or abuse.	Increase pro-social communication, nurturance, structure, supervision, and monitoring in the family. Address dysfunctional boundaries and role confusion. Implement behavioral management system that provides for consistent rewards for pro-social family interactions.
<u>School/Work</u> Poor performance and limited engagement with school and/or work resulting in dissatisfaction and avoidance of these institutions.	Increase school engagement and performance in work and school through remediation of barriers to satisfaction (such as an Individualized Education Plan or job training). Implement monitoring and behavioral reinforcement programs to increase pro-social decisions that lead to consistent attendance at school and work.
<u>Leisure &amp; Recreation</u> Limited involvement in pro-social leisure activities.	Increase exposure to a variety of pro-social leisure and recreational activities. Increase opportunities for regular involvement in preferred activities and reward milestones in achievement.
<u>Substance Abuse</u> Use of alcohol, tobacco, and/or other illegal substances.	Reduce substance use through targeted treatment, increase supervision, reduce access to substances, and reduce exposure to substance using peers. Increase capacity to cope with stressors through skill-building and reinforcing the use of pro-social stress reducing activities.



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