

DANE COUNTY
JUVENILE
COURT
POLICY
&
PROCEDURE
MANUAL

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INTRODUCTION TO BASIC PRINCIPLES

Corresponding to the mission of the Juvenile Court, the goals outlined are elaborated on as principles below. Participants in the system (social workers, attorneys, court officials, clients, treatment providers, etc.) all play a critically different role and have a different perspective on what should be done to balance these objectives, but the failure to consider each of these in **every** case and process increases the likelihood that intervention (formal or informal) will be unsuccessful. In many ways these principles provide guidance for the participants in the system and illustrate how their conduct and performance contribute to a system which provides an efficient and appropriate response.

Although expressed as separate concepts or objectives, the principles are in reality interdependent. Achievement of long-term change and protection is attained only when a balanced approach is taken to addressing the problems presented.

PROTECTION

Perhaps the most fundamental goal of the Juvenile Justice system is in the protection of children, the protection of the family, and the protection of the public interest. Protecting the safety of children (from adults and other children) is balanced with the need to protect the rights and reinforce the responsibilities of the family in raising their children and with the need to protect the person and property of citizens from the acts of juveniles. Short-term steps may be necessary to meet one of these needs, but realistic long-term protection depends on the careful consideration of all of these interests in conjunction with the principles of accountability and intervention. Protection is maximized when:

- Adequate and timely assessment of the needs of the child/juvenile, family, and public occurs at all stages of involvement
- Resources are arrayed and provided in a manner that promotes intervention as early as possible
- All potential sources of support, supervision, and treatment are considered and engaged as needed
- Delays in providing services or in the movement of a child/family through the legal system are minimized
- Information within the system is shared with others involved in the juvenile/child/family's life (within statutory limitations and respect for the privacy of individuals), and collateral information from other sources is sought out and used appropriately
- Compliance with expectations and/or the participation or progress in a treatment plan is monitored regularly, and problems are addressed and changes are made as needed in a timely manner
- The impact of behavior on victims (and the potential impact of repeated behavior on victims) is considered in the development of a plan for treatment, supervision, and/or safety
- In cases in which children are the victims, the intrusive and disruptive aspects of the court and legal process is minimized as much as possible while still ensuring their safety and the gathering of information necessary to successfully intervene
- All participants in the system perform their duties in an efficient, respectful, and professional manner

ACCOUNTABILITY

Accountability means that the system holds individuals, with rare exceptions, responsible for their behavior. While recognizing the factors that may contribute to the problem/behavior identified, a true sense of accountability requires that individuals understand the impact of their act on the victim(s) and/or community, that the undesirable/illegal choices they have made are not acceptable, and that some change must occur that restores a proper and responsible relationship between the offender and the victim(s)/community. Accountability, in the individual and in the system, is maximized when:

- The juvenile/adult understands the connection between his/her behavior and the consequences that follow and, to the degree possible, that the consequences imposed are logically connected to the nature of the misbehavior
- Consequences, in whatever form they may take, occur as soon after the behavior as possible
- The juvenile/adult is clearly confronted with the message that his/her undesirable/illegal behavior is not acceptable
- The juvenile/adult gains some insight into the impact of his/her behavior on victims and/or on the community and the juvenile is expected to be an active participant in efforts to compensate the victim or community
- All participants in the system (social workers, attorneys, law enforcement, court officials, etc.) perform their duties in an timely, respectful, confidential, serious, and professional manner and are held accountable for their performance
- Allowing for individual differences and needs, children/families are dealt with as consistently as possible throughout all stages of the juvenile justice process
- Information within the system is available to participants in the system in a way that promotes the sharing of relevant information in an efficient and comprehensive manner and ensures protection of the rights of the child/adult
- The individual(s) responsible for monitoring the juvenile/family's compliance with expectations and treatment do so on a regular and consistent basis
- Non-compliance is confronted and dealt with in a manner consistent with the above principles

COMPETENCY DEVELOPMENT

The purpose of providing intervention/treatment is to address the needs of the juvenile/child/family in a way that promotes their competency and minimizes the likelihood that sustained or repeated court or system involvement will be necessary to adequately protect the child or public. In some cases, simply ensuring accountability for the behavior may be sufficient to meet these objectives. In others, however, more extensive and long-term forms of intervention and treatment will be necessary. In any case, the positive impact of intervention and treatment for competency development is maximized when:

- Adequate assessment of the child/juvenile and family's needs and strengths occurs, initially and on an on-going basis and those involved in making recommendations and decisions related to children/families have sufficient understanding and knowledge of principles of child/adolescent development, family dynamics, and treatment approaches as may be relevant to the circumstances of the child/family.
- The juvenile/family understand and accept the need for intervention/treatment, the relationship between the problems identified and the intervention is understood, and the juvenile/parent participate in the services provided
- The intervention/treatment prioritizes the issues to be addressed and focuses on the most important issues first
- Goals of the intervention/treatment are understandable and achievable
- Appropriate intervention/treatment is provided as soon as possible
- All available resources are used to support progress toward competency goals, including what may be considered "non-traditional" resources and/or those that can be developed or provided by others in the community
- The case manager for the child/juvenile/family regularly monitors compliance with expectations and progress toward competency goals and works with the child and family to adjust the intervention/treatment as needed
- Intervention/treatment recognizes and respects the individual and cultural diversity of the child/family
- Intervention/treatment works to provide the child/family with the skills and competencies that will allow them to become independent of the need for court or other system involvement. In some cases there is a recognition that some form of support/intervention may be necessary for a significant period of time but at a minimum attempts to develop the skills of the child/parent to minimize the role that must be played by the system.

MISSION STATEMENT

Consistent with protecting the rights of and ensuring due process for individuals involved in the justice system, it is the mission of the Dane County Juvenile Court, through its actions, policies, and decisions, to:

- Promote the protection and safety of the public from the delinquent acts of juveniles and promote the protection and safety of children from the abusive and neglectful acts of adults or other children.
- Promote the responsible growth of children and families by holding them accountable for their behavior.
- Promote the involvement of children and families in programs and/or services that enhance the development of skills and competencies toward self-sufficiency and minimize the likelihood of the need for further court or system intervention and control.
- Address the needs of victims through appropriate access to information, restitution, restoration, and assistance.

Further, the Dane County Juvenile Court will be an advocate for the development of community resources, programs, and policies that can best promote the prevention of problems with children and families and best promote the involvement of others, including children, to ensure that children become successful citizens contributing to the safety and well-being of the community.

INTRODUCTION TO POLICIES/PROCEDURES AND APPROVAL

The policies and procedures contained in this document, dated 7/12 have been drafted with the intent of complying with changes made to the Children's Code (Chapter 48) and additions made by the Juvenile Justice Code (Chapter 938).

EXCEPTIONS

In using this manual, there are a few prefacing remarks that should be kept in mind:

1. This manual is not an all-inclusive reflection of statutes related to issues with children. Most policies and procedures related to jurisdiction over children are contained in the specific statutory language of Chapter 48 and 938.
2. Policies may not be adopted that are in contradiction to statute. Therefore, in cases in which, either through error or oversight, policies are not consistent with statute, the statutory language is governing.
3. Within statute and policy, in those cases in which the Court feels that an exception to the general policy is necessary, exceptions may be made by the Court consistent with the best interests of the child and the goals and principles of the Juvenile Court. By their nature, the lives and situations of children and families presented to the Court are unique and require the thoughtful consideration of individual factors.

PROCEDURE FOR AMENDING AND REVIEW OF THESE POLICIES/PROCEDURES

An **official** version of the this Juvenile Court Policy/Procedure Manual will be maintained in the following locations, and each designated person/location shall receive a copy of any changes, additions, or modifications approved by the Court as they are made:

- Each current Juvenile Judge
- The Juvenile Court Commissioner
- The Chief Judge of the judicial district
- The Clerk of Courts
- The Juvenile Court Administrator
- A single designated location or individual in the Dane County Human Services Department
- A single designated location or individual in the District Attorney's Office

- A single designated location or individual in the Corporation Council's Office
- A single designated location or individual in the State Public Defender's Office
- The District Court Administrator
- A full set of policy/procedures will be available on the Juvenile Court Program's website at www.countyofdane.com/juvenilecourt

Amendments or changes to these operating policies may be made with the approval of the Juvenile Judges, as determined by the Chief Juvenile Judge, and the Chief Judge of the Judicial District. Changes/amendments will be written in a format similar to the format of these policies and signed by the Chief Juvenile Judge and Chief Judge of the District and distributed to the above parties upon approval.

JUVENILE COURT
POLICY/PROCEDURE

DESIGNATION OF INTAKE AND OTHER HUMAN SERVICES
Chapter 938 – Delinquency and Juveniles In Need of Protection or Services

POLICY

Pursuant to §938.067(1) thru (5), staff of the Juvenile Reception Center are designated as the staff to provide screening of children taken into custody under §938.19(1) (except 938.19 (1)(d)5) and not released under §938.20(2).

Staff assigned by the Department of Human Services to provide Delinquency/JIPS Service Intake functions are, in addition to performing other duties required under Chapter 938, recognized by the Court as the intake staff to provide services pursuant to §48.067(6) thru (9) and for the purpose of taking a child/juvenile into custody if necessary under §938.08.

Staff assigned by the Department of Human Services to provide Delinquency/JIPS dispositional functions are recognized by the Court to have the powers and duties outlined in §938.069.

The Department of Human Services may organizationally divide workers into Intake and "on-going"/dispositional units in order to accomplish the objectives of Chapter 938. This policy does not preclude staff from one unit performing duties of the other unit depending on the needs of the child/family and the Department. For example, a worker providing dispositional services may, at the discretion of the Department, also act as an intake worker under authorizing statutes or vice versa.

JUVENILE COURT
POLICY/PROCEDURE

**DESIGNATION OF INTAKE AND OTHER HUMAN SERVICES
CHAPTER 48 – Children In Need of Protection or Services (CHIPS)**

POLICY

Staff assigned by the Department of Human Services to provide Child Protective Service Intake functions are, in addition to performing other duties required under Chapter 48, recognized by the Court as the intake staff to provide services pursuant to §48.067 and for the purpose of taking a child/juvenile into custody if necessary under §48.08.

Staff assigned by the Department of Human Services to provide Child Protective dispositional functions are recognized by the Court to have the powers and duties outlined in §48.069.

The Department of Human Services may organizationally divide workers into Intake and "on-going"/dispositional units in order to accomplish the objectives of Chapter 48. This policy does not preclude staff from one unit performing duties of the other unit depending on the needs of the child/family and the Department. For example, a worker providing dispositional services may, at the discretion of the Department, also act as an intake worker under authorizing statutes or vice versa.

JUVENILE COURT
POLICY/PROCEDURE

**GUIDELINES FOR JUVENILE COURT INTAKE
DELINQUENCY REFERRALS**

POLICY

Pursuant to §938.06(2) the Court may, subject to the Chief Judge of the district, issue guidelines to be used by Intake workers in the review of referrals and for the determination of action(s) to be taken. Consistent with the mission of the Juvenile Court, offenses which are serious and require the intervention of the Court should be filed with the Court.

GUIDELINES AND PROCEDURE

Juvenile Court intake, as related to **delinquency** referrals, involves the District Attorney, the Dane County Human Services Juvenile Court Intake Coordinator (JCIC) and the social worker assigned by the Department of Human Services. Their combined efforts result in:

1. A determination that the information contained in the referral is sufficient to establish prima facie court jurisdiction (938.24(1)), based on age, venue, and elements of the specific law violation.
2. A determination as to how the child/family can best be assured of care, protection, and/or treatment that also reasonably ensures protection of the public interest.

This initial review and determination should be made, whenever possible, within 14 days of the date of referral from Law Enforcement to the Court.

Pursuant to 938.06(2)(a) the following guidelines are to be used by social workers relative to their duties to review delinquency referrals. These guidelines apply whether or not the child is currently under court supervision. In the event the child is already under court supervision, the worker assigned to provide on-going supervision may perform the intake assessment function.

I. PROCEDURE

When a case is referred to the court and a determination is made that there exists prima facie jurisdiction, the next step is to determine how the case will be handled. In some cases the crime itself is serious enough to warrant formal charges without any other information being taken into account. In those cases, intake assessments will be done after charges have been formally filed.

In other cases, information regarding the child and family becomes more critical in determining how to proceed. Family based assessments will be done prior to the action taken, with a recommendation and/or action taken forwarded to the DA, in a format acceptable to the Department and DA, for review within 35 days of the date of receipt of the referral. The options include: (1) Requesting that a formal petition be filed, (2) Entering into a Written Deferred Prosecution Agreement with the child/family, or (3) Counsel/Release the juvenile. The DA has 20 days in which to accept/reject the Intake action and file a petition.

II. FAMILY BASED ASSESSMENTS

Assessments done by the Department will be done in accordance with Department policies related to family-based assessments and will include the information necessary to provide the DA an opportunity to review both the charge and the circumstances of the child/family in order to make a reasoned decision related to the action taken by the Intake Worker.

Assessment information will be used to determine whether intervention/treatment, accountability, and public protection needs can be met with or without formal court intervention. When these needs can be met without formal court intervention it may be desirable.

It is presumed that the worker will request the filing of a petition if, based on the Intake Assessment, any of the following **conditions** are present:

1. The parent is unwilling or unable to provide adequate supervision, behavior management, and/or care for the child.
2. The child has committed prior delinquencies and has not responded to prior intervention and treatment efforts.
3. Resources necessary for the child/family are not available without a court order (this could include out of home placement resources that cannot be done on a voluntary basis and/or other treatment/intervention services that required a court order for involvement).
4. The child cannot be held sufficiently accountable (e.g. restitution) for their behavior and/or the safety of the public cannot be reasonably ensured without court intervention.
5. The child and/or parent do not participate in or cooperate with intake assessment efforts.

CHARGING CATEGORIES

A. Charges in which the filing of a formal petition is expected (Unless the DA makes an exception due to extraordinary circumstances; additionally, Chapter 938 provides that a number of charges fall within the original jurisdiction of the criminal court. The following list relates only to charges that may be filed in juvenile court.)

- a. Homicide
- b. Attempted Homicide
- c. 2nd Degree reckless homicide
- d. Armed Burglary
- e. Offense which involve the use of a dangerous weapon
- f. Other weapons related offenses, including pellet and b-b guns, in which the weapon was used to intimidate, threaten, injure, harass, or otherwise harm another person or in which the use of a weapon could have caused the death of or great bodily harm to another person.
- g. Robbery
- h. Delivery of or possession with intent to deliver of cocaine, cocaine base, LSD, barbiturates, narcotics, hallucinogens, or other illicit drugs.
- i. Threats to harm/injure a witness of a pending charge
- j. Battery to a police officer
- k. Battery to a correctional staff member, social worker, court staff member, attorney, or other party in the juvenile justice system.
- i. First degree sexual assault

B. Other Offenses

The list above is **not** intended to be a complete list of all offenses that may be appropriate for referral to the Court. Other offense referrals will be reviewed following the process outlined above and may/may not be filed formally at the discretion of the District Attorney based on the nature of the offense and request and information provided by the Department of Human Services. Particular emphasis should be given to felony allegations/referrals and in general cases in which intervention on an informal basis is not sufficient to meet the goals of the Juvenile Court should be filed with the Court.

JUVENILE COURT
POLICY/PROCEDURE

CASE ASSIGNMENT(S)

POLICY

Each case filed with the Juvenile Court will be assigned to a Judge in accordance with the following rules:

1. If the child/juvenile or sibling has been previously assigned to a presently sitting juvenile judge, the case shall be automatically assigned to that judge. This rule takes precedence over all other assignment rules, with the exception of procedures related to Substitution.
2. Cases of co-defendants shall be assigned to the same judge (unless otherwise assigned based on rule 1 above) and be counted as individual case assignments.
3. If rules 1 and 2 are not applicable cases will be assigned on a random basis to a judge from among the juvenile judges in a manner prescribed by the juvenile judges and kept on record with the Clerk of Courts and Juvenile Court office.

The Juvenile Court will maintain a procedure approved by the Juvenile Judges for assignment that results in an equitable distribution of case assignments.

PROCEDURE

At the time of filing a petition, the party filing the petition should provide to the Court Clerk information as may be available related to Rules 1 and 2 above. That is, the petition should be filed with a corresponding Court Request form or note indicating if the juvenile or sibling is currently or has been previously assigned to a judge or is a co-defendant with another juvenile.

The Juvenile Clerks will cross-check the juvenile's name with existing records to ensure that Rules 1 and 2 are complied with.

COMMENTS/EXCEPTIONS

Note that in cases in which the Clerks do not receive information about sibling's involvement in the juvenile court and in the event of differences in children's last names that the cross-checking procedure for assignment may not "catch" all cases. In those cases in which it is discovered later that an error has been made, the case should be assigned to the proper judge with the consent of the judges involved.

JUVENILE COURT
POLICY/PROCEDURE

CONSOLIDATION OF CASES ASSIGNED

POLICY

If consolidation of cases of two or more youths is granted with respect to pending petitions, all of those cases will be assigned to the judge assigned to the youth with the lowest case number. Assignment as the result of consolidation shall not affect the assignment of a judge to any subsequently filed petition concerning a youth.

The number of tabs used in the random draw for case assignment should be adjusted accordingly.

JUVENILE COURT
POLICY/PROCEDURE

SUBSTITUTION

POLICY

Consistent with §48/938.29 related to the substitution of judges in juvenile cases:

1. The request for substitution in **non-Waiver** cases must be made in writing to the court prior to or during the plea hearing on a form prescribed by the Court or otherwise approved by the Court.*
2. The request for substitution of a judge scheduled to conduct a waiver hearing under §938.18 shall be filed in the assigned Court before the close of the working day preceding the day the waiver hearing is scheduled unless otherwise approved by the judge on the day of the waiver hearing.*
3. For proceedings under §48.375(7) (Waiver of Parental Consent for Abortion) the minor may select the judge whom she wishes to be assigned to the proceeding
- *4. In a proceeding under §938.12 or 938.13(12) only the **juvenile** may request a substitution, and the **juvenile** may not request the substitution of a judge under a proceeding under §938/48.12 or 938/48.13(12) if the judge assigned to the proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding under §938/48.13(4), (6), (6m), (7), or (12). The **child, parent, guardian, or legal custodian** may not request a substitution of judge if the assigned judge has entered a dispositional order with respect to the juvenile in a previous proceeding under §938.12 or 938/48.13(4), (6), (6m), (7), or (12) or if the juvenile or juvenile's parent, guardian, or legal custodian has requested the substitution of a judge in a previous proceeding under those same statutes.
5. Once a substitution of a judge is granted on any petition regarding a specific child that judge is forever disqualified from presiding over any subsequent juvenile court proceedings regarding that child with the exception of Petitions for Revision, Extension, and/or Change of Placement over which that judge has established and maintained jurisdiction

The Juvenile Court will maintain a process for resolving discrepancies in the number of assignments to other courts that may result from the filing/granting of substitution requests.

PROCEDURE

Upon filing of a Substitution Request the Juvenile Clerk will time/date stamp in the request, forward to the Judge/Commissioner for approval, and then process the request in a manner approved by the Court, including sending necessary information to the District Court Administrator.

EXCEPTIONS/COMMENTS

Although statutes and court rules permit filing of requests up to/at the point of a plea hearing, attorneys or other parties authorized to request a substitution should request the substitution as early as possible in the process to facilitate the reassignment and re-scheduling of a hearing in a timely manner.

In the event that due to prior substitutions no current juvenile judge is permitted to hear the matter presented, the case shall be referred to the District Court Administrator for assignment.

Subsequent petitions filed with the court related to the child shall be assigned to the judge assigned as the result of the substitution procedure outlined above. For example, if petition 1 is assigned to Judge A, but upon substitution reassigned to Judge B, petition 2 (the next) would be assigned to Judge B.

Substitution requests may be made based on Change of Placement, Revision, and/or Extension petitions filed in which a judge has not yet heard any aspect of the case may be granted by the Judge at his/her discretion. Note: this may occur following the transition of cases from a prior sitting Juvenile Judge to a new Juvenile Judge.

JUVENILE COURT
POLICY/PROCEDURE

SCHEDULING OF PLEA HEARINGS

POLICY

Plea Hearings are to be set with the Juvenile Court Commissioner, except for those petitions filed under Termination of Parental Rights or any other case as may be specifically directed by the judge assigned to the case (e.g. may direct that all subsequent plea hearings on a child be set directly with the judge). For the exceptions noted, the plea hearing is to be set directly with the judge assigned to the case.

Additionally, plea hearings for new petitions may be set directly with and conducted by the judge assigned in the event there is another matter already calendared with that judge (e.g. Extension, Revision, Change of Placement, Pre-trial or Disposition on another petition, Motion to Impose Sanctions).

EXCEPTIONS/COMMENTS

Note that the Judge may direct that all subsequent hearings (plea and any other hearings) related to the child be set directly with him/her. If so requested, a note should be placed on the outside cover of the juvenile file indicating that so that at the time of processing the petition that will be done.

JUVENILE COURT
POLICY/PROCEDURE

JUVENILE COURT NOTICES

POLICY

Notices to parties of hearings scheduled in Juvenile Court shall be sent in a manner which permits them sufficient time to prepare for the events scheduled.

Verbal notice of subsequent hearings given by the Judge/Commissioner at the time of a court hearing shall constitute sufficient notice for that subsequent hearing.

PROCEDURE

The responsibility for sending Notices for various court activities is divided among different parties in the system as follows:

A. Initial Summons and Hearing Notices

Notice of Hearing for new Delinquency petitions to be prepared/sent by the Juvenile Court (CCAP) system.

Summons for juvenile hearings to be prepared/sent by District Attorney or Corporation Counsel, when applicable.

Notice of Hearing for CHIPS petitions filed by any party to be prepared/sent by the Juvenile Court (CCAP) system

Notice of Hearing for Involuntary TPR petitions to be prepared/sent by the Corporation Counsel's Office

Notice of Hearing for Voluntary/Involuntary TPR petitions filed by private attorney to be prepared/sent by the attorney

Notices for all other petitions filed (e.g. Extensions, Change of Placement, Revisions, Rev. CD,) and other Conferences, Pre-Trials, etc. all prepared/sent by the Branch staff).

B. Subsequent Hearing Notices

Notice of Hearing for Pre-Trials and Trials to parties not present at a Plea Hearing to be sent by the Court Clerk (Branch Clerk if done by a Judge, administrative staff if done by the Commissioner)

Notice of Hearing for Dispositional Hearings to parties not present at a Plea, Pre-Trial, or Trial to be prepared/sent by the Court Clerk (Branch Clerk if done by a Judge, administrative staff if done by the Commissioner)

Notice of Hearing or Conference for a Review or Conference to parties not present at a prior hearing set at the direction of the Judge will be prepared/sent by the Court Branch

Notice of Hearing for Revisions, Extensions, Revocation of Consent Decree, and/or Change of Placement petitions filed by any party to be prepared/sent by Branch staff

Extension Hearings for youth in Corrections to be prepared by Branch staff with notice to Juvenile Reception Center, Dane County Human Services Correctional Liaison in addition to other parties

Notices of Hearings resulting from a change in court date or time requested by an attorney or social worker are to be prepared/sent by the Court (Branch staff if change approved by branch, administrative staff if change approved by Commissioner). (Note Policy on **Changes in Court Time** related to requirements for approval of changes in court time/date prior to cancellation/rescheduling/noticing). Note that in the event this change is "last minute" (that is does not allow sufficient time for preparation, mailing, and receipt of new notices) the attorney or social worker requesting the change is responsible for verbally notifying all related parties to the case, including attorneys, social workers, both parents, victim(s), Juvenile Court (JRC, Shelter Home, or Detention) staff, etc. of the emergency change. (Refer to policy on Change in Court Time).

Also note that §48/938.27(3) requires 72 hours notice to parties unless otherwise stipulated and that telephone notice is to be documented by placing a signed statement in the case file.

JUVENILE COURT
POLICY/PROCEDURE

CHANGE IN COURT TIME

INTRODUCTION

It is important that all parties in the Juvenile Court system understand the importance of proceeding with juvenile cases in a timely and efficient manner. It is therefore expected that all parties will be prepared to proceed at the time(s) scheduled and that changes and other continuances will be granted only when absolutely necessary.

POLICY

Changes in scheduled court time and/or date may only be made for good cause and with the approval of the Judge or Commissioner with whom the matter is scheduled **and** only after presentation of information which justifies the change **and** permits the rescheduling of the matter within statutory time limits.

In the event rescheduling of the hearing is not possible within statutory time limits the matter may not be canceled/rescheduled. In this case the court must go on the record and take whatever action may be necessary to continue the matter until a later date.

Attorneys or Social Workers making a request for a change in court time which is less than five days of the scheduled hearing are responsible for verbally notifying **all** parties of the change if granted. For changes further than five days ahead, written notification to **all** parties is sufficient.

PROCEDURE

The following steps should occur relative to a request for change in time:

1. The party/parties desiring a change in court time/date should contact the Court Branch Clerk (for hearings set with the Judge) or the central Juvenile Court office (for hearings set with the Commissioner) to request the change.
2. The Clerk shall first determine whether rescheduling the hearing within statutory time limits is possible. If not, the request may not be granted. If possible to reschedule within time limits, the Clerk shall obtain information as directed by their Judge/Commissioner as to the reason for the request and provide that information to the Judge or Commissioner to review. If the requesting party is an attorney or social worker they must solicit information from **all** other parties related to the request for change in time/date and provide that information to the Clerk as well.

3. The Judge/Commissioner shall approve or deny the change within no more than one working day of the request. All changes/setovers must be approved/reviewed by the **Judge** or **Commissioner**. Clerks may not approve a change/setover request in other than extreme emergencies.
4. The Branch Clerk (administrative staff if approved by Commissioner) will verbally notify the requesting party of the approval/denial, make the change on the CCAP system, and send notices to all parties within one working day of that notification. All parties are to assume that the hearing is not changed unless otherwise notified.

EXCEPTIONS/COMMENTS

Court staff should assist parents and/or other "non-professional" parties in completing this process as may be necessary. Attorneys, Social Workers, DA's and other professional parties are expected to carry a greater responsibility in making this aspect of the system work smoothly and responsibly.

Note that §938 has expanded the circumstances under which time limits may be extended. Refer to §938.315 and 48.315 for a list of those circumstances/exceptions.

JUVENILE COURT
POLICY/PROCEDURE

SELF-DISQUALIFICATION

POLICY

Self-disqualifications in juvenile cases may be made as needed without the approval of the Chief Judge.

PROCEDURE

The form used for purposes of substitution will be the same form used for disqualification. Upon a decision by a judge to disqualify himself/herself:

1. The form is to be completed by the Branch and submitted to the District Court Administrator so that a new judge can be drawn.
2. The Court Administrator's office will generate the order effectuating the change of judge and send the order to the branch, and branch staff will send out the copies of this order to the interested parties in the case.
3. As is done in substitutions, a tab for the judge disqualifying himself/herself will be placed in the substitution pool.
4. Juvenile court administrative staff shall enter the disqualification event onto the CCAP system.

JUVENILE COURT
POLICY/PROCEDURE

GUARDIAN AD LITEM APPOINTMENTS

POLICY

Appointments of Guardian Ad Litem for juvenile cases shall be made in all cases as required by statute and in other cases in which the Court believes the appointment of a Guardian Ad Litem is necessary from the pool of attorneys appointed as part of the Guardian Ad Litem project.

Unless otherwise ordered by the Court, assignments are to be done on a random basis in accordance with an assignment grid developed by the Clerk of Courts.

PROCEDURE

The Court shall automatically appoint a GAL for all children under the age of 12 upon filing of a petition. The Court may appoint a GAL in other cases in which the circumstances of the case merit the involvement of a Guardian Ad Litem.

Upon determining a GAL should be appointed the Clerk for the Juvenile Court Commissioner will prepare an Order for Appointment listing the selected attorney's name and give the Order to the Commissioner for signature. After approval, the Clerk will notify the appointed attorney of the appointment and forward their copy of the Order to them. In any case in which the appointment is made by a Judge some time after the initial filing(s) and proceeding(s) have commenced, the Order for Appointment should be prepared by the Judge's Clerk making the appointment and signed by the Judge.

EXCEPTIONS/COMMENTS

Exceptions to appointments from the pool of selected attorneys may be made by the Court in the event that there has been a **previous GAL** appointed within the last 2 years for the child. In these cases, if the Court does not specify reappointment of the previous GAL, prior to preparation of an Order by the Clerk the case will be reviewed by a person designated by the Clerk of Courts to determine whether reappointment of a new GAL is in the child's best interest. In cases in which the child's interest can be equally well served by the appointment of an attorney from the GAL Project, the appropriate name of a Project GAL will be forwarded to the Court for approval.

The Court may also make exceptions to appointing an attorney from the GAL Project in the event the circumstances of the child and case are unique and require the expertise of an attorney not in the GAL Project.

The Court may appoint specific attorneys from the GAL Project and/or may reject the recommended attorney at his/her discretion. In these circumstances, the Clerk will

forward the next name to the Court and adjust the case assignment schedule accordingly. In the event any individual attorney is "over-assigned" to cases, they may be removed from the "draw" for a period of time as may be deemed necessary by the Clerk of Courts to balance the assignments in compliance with conditions of appointment.

Attorneys interested in receiving GAL appointments may submit a letter of interest and a resume' to the Presiding Juvenile Judge with a copy to the Clerk of Courts.

The Juvenile Court Commissioner has the same authority as a Judge related to the appointment and/or removal of a GAL.

GAL appointments **terminate** when supervision is terminated.

JUVENILE COURT
POLICY/PROCEDURE

CAPIAS PROCEDURE AND POLICY

POLICY

A Capias may be issued by the Court in accordance with §48.28 or §938.28 of Wisconsin Statutes for failure of a child or parent to appear at required hearings when the child or parent has submitted to the jurisdiction of the court, has been properly summoned as required by §48.27 or §938.27, or pursuant to a finding by the Court that service of a Summons will be ineffectual. The Commissioner is authorized to sign a Capias.

A Capias issued based on a CHIPS or JIPS petition is not sufficient grounds for holding a juvenile in secure custody pending appearance at court.

PROCEDURE

At the time of the Court hearing, the District Attorney will complete a Capias form, filling in the information needed for completion of the form (including listing all relevant petition numbers). If the Capias is approved by the Court the branch/staff will docket the action, file the Court's copy (copies if more than one petition) of the Capias, and forward the remaining copies with one copy of the pending petition attached to JRC for distribution.

A. Direction to law enforcement and intake: At the time of the hearing, the Court will indicate on the Capias the intent of the court relative to intake by JRC, utilizing the following guideline(s):

1. If the petition underlying the proceeding is a **CHIPS** petition or a petition under §938.13 (**JIPS**), the Court will direct that the child (ages 12 or over) be "brought to JRC for intake". This directive implies that the JRC intake worker has full discretion at that time in determining the need for a temporary custody order pending the rehearing considering factors in the case and may place the child under an Order for Non-Secure Custody at a place designated in §48.207(CHIPS) or §938.207(JIPS). A child/juvenile referred based on a CHIPS or JIPS Capias may not be placed in Secure Custody under this directive. If the juvenile is referred during regular working hours, the intake Counselor will obtain a new court date from the Court and provide the child with written notice of that new time and date. If the child is referred after regular working hours, JRC will contact the Court the next working day of the need to schedule a new hearing and send written notice to all parties. If the child is held under an order for Non-Secure custody, those arrangements can be made at the time of the Physical Custody/Capias hearing the following day.

2. If the petition underlying the court appearance is a **delinquency** petition, and
:

a. There is evidence presented on the record at the hearing that the juvenile meets the criteria under §938.208 the court may direct that when apprehended the juvenile be taken to Juvenile Reception Center and, under the authority of §938.10, further direct that the juvenile be held in Secure Custody pending a hearing.

b. There is not sufficient evidence presented on the record at the hearing to find that the juvenile meets one of the §938.208 grounds the Judge may direct that when apprehended the juvenile be taken to Juvenile Reception Center for an intake decision.

In any case in which the court's directive is "Bring to Juvenile Reception Center for Intake", a copy of the petition should be attached to the CAPIAS to aid JRC Counselors in making a custody determination.

If the juvenile is held in Non Secure or Secure Custody, the hearing before the Court required by the Capias will be scheduled on the Court Commissioner's calendar unless the issuing judge has included additional directives under the Special Instructions section of the Capias. Immediately in the morning of the next working day, JRC will contact the Court issuing the Capias and determine whether or not the Judge wishes to hear the matter directly, in which case the matter must be set with the Judge for some time on that working day, preferably at a time that will minimize conflict(s) with other juvenile matters.

If the juvenile is not held in Non-Secure or Secure Custody, JRC will confirm the juvenile's current living status and confirm with the juvenile and juvenile's parent/caretaker that the juvenile will appear in court when required. The following day, JRC will notify the Court Branch that issued the CAPIAS, the juvenile's social worker, the juvenile's attorney, and the District Attorney's office that the juvenile was apprehended and released. The Court Branch will set a new court date and send notices of the new date to the appropriate parties.

B. Direction(s) to law enforcement related to out of county service and apprehension: On the Capias, the court will indicate what directions should be followed relative to apprehension of the juvenile outside Dane County. The Capias form will provide standard language related to those directions so that if the juvenile is apprehended outside of Dane County or outside the state, the court's intention relative to holding or returning the juvenile to Dane County is clear.

After being notified that the juvenile has been apprehended and that the Capias can be canceled, the Sheriff's office brings their copy of the Capias to JRC for "receipt" and notation of apprehension. That copy is delivered to staff in the Juvenile Court Commissioners office who locate the related file(s) and will place a copy (copies if more than one petition) in the juvenile's file(s) and docket in CCAP that the Capias has been canceled.

CAPIAS ROSTER

When a juvenile is carried on the Reception Center roster as having a Capias outstanding and has attained age 17 years plus six months, memos are to be forwarded to the District Attorney assigned, Social Worker, and to the Judge who issued the Capias requesting that the matter be reviewed and that Reception Center be advised as to whether the Capias is to remain in effect. Cancellation of the Capias or changes in directions to law enforcement may be made only with the approval of the Court.

EXCEPTIONS/COMMENTS

In the event of extenuating circumstances that become evident at the time of intake in Reception Center, the Counselor may contact the Judge issuing the Capias or the Duty Judge to present the information and ask that an exception be granted.

JUVENILE COURT
POLICY/PROCEDURE

SOCIAL WORKER ATTENDANCE AT HEARINGS

POLICY

Social Workers are expected to attend Court Hearings according to the following guidelines:

1. **Plea Hearings**

a. Workers should attend any Plea Hearing in which they have not already met the client/family.

b. For Plea Hearings set with the Commissioner, workers have the option of not appearing but must notify the Clerk of the Juvenile Court Commissioner prior to the scheduled hearing, either in writing, e-mail, or by phone (266-4407) that they will not be attending and verifying who the worker assigned to the case is.

c. Workers should attend any Plea Hearing in which their presence will expedite completion of a Consent Decree and/or further meeting the treatment/intervention needs of the family/court. If the worker is not recommending a Consent Decree be entered, the worker should notify the Court Clerk of that recommendation (preferably sent via e-mail) prior to the hearing.

If a Worker does not attend the Plea Hearing, he/she will be notified of the results of the hearing by the Clerk (by sending a copy of the Plea Hearing minute(s)) and the time/date set for pre-trial, trial, and/or disposition.

2. **Physical Custody Hearings**

a. In cases involving **Emergency Custody**, the worker who takes custody shall attend the Physical Custody Hearing, unless there is a previously assigned worker, so as to provide the Court with the necessary information related to the taking of custody and other case factors.

b. Workers have the option of appearing at a Physical Custody hearing or review that is initiated by another party. However, the worker if not attending, must communicate to JRC (for delinquency/JIPS only) information related to the current case plan, status of the case, and his or her immediate recommendation regarding placement. Further, workers should indicate their availability by phone at the time of the hearing for possible contact for a phone conference.

3. **Hearings before Judge**

Workers shall attend all hearings scheduled before the Judge unless otherwise excused by the Judge with the exception of **Trials and Jury Draws**. In those cases set for Trial/Jury Draw, the worker shall attend if, based on consultation with the attorneys, it is expected that the case will settle and "go to disposition" at the time set for trial.

4. **Hearings for Juveniles in Detention**

For juveniles held in Detention, workers are to attend all scheduled court hearings except trials/jury draws unless the worker has already met the juvenile/family and one of the following is arranged:

- a. The hearing may be covered by one of the court Social Workers, or
- b. The social worker notifies JRC of their intent **not** to appear at least two hours prior to the hearing, informs JRC of relevant information by FAX or e-mail, and provides JRC with 2 telephone numbers (direct number and main office number) at which he/she might be reached during the hearing (this requires the worker be available at the office or other designated number during the approximate time of the hearing).

EXCEPTIONS/COMMENTS

In many cases, it may be appropriate for workers to utilize the services of the Juvenile Court Intake Coordinator who also has the authority to act on behalf of workers and the department at court hearings.

JUVENILE COURT
POLICY/PROCEDURE

PARTY APPEARANCES WHEN DOUBLE-SCHEDULED

POLICY

As much as possible, the Court will calendar cases in a way that minimizes the conflict(s) of time for parties involved in the system (i.e. attorneys and social workers).

However, in the event of being expected to be in more than one court at a time, the following priorities for appearance shall govern attendance:

1. Trial (for worker, only when under subpoena)
2. Any contested matter when notification has occurred more than three weeks in advance
3. The Judge scheduled for conducting Juvenile hearings on that day
4. The Commissioner scheduled for conducting Juvenile hearings on that day
5. The Judge conducting hearings not scheduled on his/her normal juvenile schedule
6. The Commissioner conducting hearings not scheduled on their normal juvenile schedule

PROCEDURE

In cases in which parties know about their conflict in advance they should make attempts to arrange alternate coverage, arrange alternate plans, and/or attempt to resolve the conflict prior to the time of the hearings as may be necessary to avoid delaying action on either/any case(s). In cases in which the conflict remains, the parties are expected to notify the Branch/Juvenile Office of the conflict and inform the court of their whereabouts as the cases come before the court.

JUVENILE COURT
POLICY/PROCEDURE

MEDIA ACCESS TO JUVENILE COURT PROCEEDINGS

POLICY

Media (print, radio, television) are not granted access to juvenile court proceedings unless specifically authorized by the Court or statute* in a manner consistent with Wisconsin Statutes, Supreme Court and Dane County Court Rules and in the best interests of protecting the welfare of the child and the safety of the public.

Media may be excluded from portions of the proceeding at the discretion of the Court.

Requests for video coverage of any Juvenile Court proceeding must be made in advance in accordance with Circuit Court Rules.

Members of the media shall be expected to comply with §48.299(1)(b) and §938.299(1)(b) related to not divulging information that would lead to the identification of the juvenile who is a subject of proceedings under Chapter 48 or 938 unless otherwise permitted by statute.*

*Pursuant to §938.299, the media may, without specific court approval, attend any hearing that is open to the public. Certain exclusions apply. Refer to Policy I-CC on "**Permitted Attendance at Court Hearings**".

JUVENILE COURT
POLICY/PROCEDURE

**NOTICE TO VICTIMS
AND ATTENDANCE AT COURT HEARINGS**

POLICY

Statutory responsibilities related to the notification of victims of a child's act(s) for petitions filed are assigned to the District Attorney's office. Procedures related to the notification of victims of their rights to attend hearings, make statements to the court (written or oral), consult as to dispositions, and other rights provided under statute shall be developed and carried out by that office unless otherwise specified by statute.

Statutory responsibilities related to the notification of victims of their rights (not otherwise required of the District Attorney's Office) in formal cases and of their rights related to the opportunity to have input, through victim impact statements or direct contact with the social worker or other means, in cases referred for consideration of Deferred Prosecution Agreement or other informal action will be fulfilled by the Department of Human Services. The Department will provide a statement of rights in formal cases to the District Attorney's Office for inclusion in the initial mailing(s) to victims.

The District Attorney's Office is responsible for notification of victims who wish to be notified of physical custody and/or other court hearings.

In accordance with §938.299(1)(am) a victim of a child's act or alleged act may attend any hearing under this chapter except that the judge may exclude a victim from any portion of a hearing which deals with sensitive personal matters of the child or child's family which do not directly relate to the act/alleged act committed against the victim. A member of the victim's family and, at the request of the victim, a representative of an organization providing support services to the victim, may attend these hearings as well.

Before imposing a disposition or entering a consent decree in a proceeding under §938.12 the Court shall inquire of the District Attorney and Social Worker as to whether the required victim notifications were made and whether or not the victim requested to be or was consulted in developing their recommendations (if the victim had requested such involvement). If the victim is present at the hearing, the court shall allow a victim to make a statement or to submit a written statement to be read to the court. In the event a victim who has requested and has received notification of hearings but does not attend the hearing nor has submitted a written statement by the time of the hearing, the court may proceed to disposition without a statement.

PROCEDURES RELATED TO HEARINGS

A. Notification of Court Hearings

The District Attorney's Office will provide notification to victims of their rights under these provisions and solicit information as to whether or not the victim wishes to attend the permitted hearings. If a victim wishes to be notified of hearings, the District Attorney's Office will provide that notice.

B. Notification of Physical Custody Hearings

The District Attorney's Office will attempt to notify victims of initial physical custody hearings and will inform the Juvenile Reception Center (JRC) of any victims who wish to be notified of subsequent physical custody review hearings. If a victim has requested such notification, JRC will notify the District Attorney's Office of any review hearings, and the District Attorney's Office will notify the victim.

C. Confirmation of Compliance

During a court hearing the court shall inquire of the District Attorney and Social Worker as to whether the required victim notification, contact, and/or consultation was completed. This shall be done on the record and noted in the Court Minutes recorded by the Clerk.

Refer to the Clerk of Courts Juvenile Procedure Manual for further procedure detail.

JUVENILE COURT
POLICY/PROCEDURE

COURT ORDERED EVALUATIONS UNDER §48.295 or §938.295
(PSYCHOLOGICAL, AODA, PSYCHIATRIC, OTHER)

POLICY/INTENT

The juvenile court may order an examination of child or a child's parent, guardian or legal custodian (hereinafter "subject") if the court determines there is a need for additional information regarding a subject's physical or mental health or development or a subject's alcohol or other drug dependency. The court may also order an examination of the alcohol or other drug abuse by an expectant mother. The examination must be conducted by a physician, psychiatrist, psychologist or by another professional with at least a masters degree in social work or another field of child development. The court may order an examination only after a petition is filed and the court finds that reasonable cause exists to warrant such an examination.

ESTABLISHING REASONABLE CAUSE FOR A COURT-ORDERED EXAMINATION

Whoever requests a court ordered examination (hereinafter "evaluation") must establish that reasonable cause exists to warrant the evaluation and shall present the following information to the court in support of their request:

1. A description of the behavior or problem that requires evaluation.
2. A summary of the information the evaluation is expected to reveal.
3. A statement of how the evaluation will assist in the development of the case plan.
4. A description of any alternative methods for obtaining the needed information that were explored by the requester or others or an explanation of why no reasonable alternative is available.
5. An explanation of why it would be difficult to implement an effective case plan without the requested evaluation.

The court will consider the answers to these questions in light of all of the other factors in the case. If an evaluation is not ordered, the parties should reach an understanding of what further information is needed and who will be responsible for obtaining it. The court will also hear any objections from the proposed subject(s) of the evaluation. If the court determines there is reasonable cause to warrant an evaluation, the court will order the evaluation and the parties shall proceed as provided below.

PROCEDURE AND TIMETABLE FOR COMPLETION OF THE EVALUATION(S)

Time is of the essence in processing the referrals for the court ordered evaluations and it is expected that everyone will conform to the deadlines noted below.

A. Assigned Judge.

The assigned judge will sign the order for the evaluation and deliver it to clerk of the juvenile court no more than two (2) working days after entering the order. If the judge who entered the order is not available to sign it, the duty judge will sign. Note: In most cases the judge will sign the order directly after the hearing at which the evaluation is ordered.

Fast-Track Evaluations. A fast-track evaluation may be ordered for youth in detention or in cases where an evaluation is necessary to determine the safety of a proposed physical custody plan/order. If a fast-track evaluation is ordered, the judge will sign the order on the day it is issued.

At the hearing at which the order for an evaluation is issued, the court will verbally reinforce expectations related to cooperation by the parent/child.

B. Assigned Social Worker

1. Referral Form.

- a. Unless another party has requested the evaluation and will complete the referral form (see c., below), prior to the hearing at which it is anticipated the court will order the evaluation, the assigned social worker shall gather any information relevant to the request for the evaluation and complete the referral form. The social worker shall *attempt* to bring the completed referral form to the court hearing. If the social worker was unable to anticipate the request for the evaluation, the social worker shall complete the referral and submit it to the Clerk of the Juvenile Court no more than seven (7) working days after the evaluation is ordered.
- b. Fast –Track Evaluations-Referral Form and Court Order. If a fast-track evaluation is ordered, the order should be signed by the judge immediately after the order is issued and the social worker should deliver the order to the Clerk of the Juvenile Court on the day the order is signed. If the social worker has not yet completed the referral form, the worker shall complete the referral and submit it to the Clerk of the Juvenile Court no more than two (2) working days after the order for the fast-track evaluation is issued.
- c. If a party (i.e., not the social worker) requests an evaluation, the party initiating the request shall complete a “short” referral form and the necessary “Consent(s) for the Release of Confidential Information” immediately after the hearing at which the evaluation is ordered. The party requesting the evaluation shall provide the court with the referral form and consent form(s) immediately

upon completion and the court will initiate the referral process. The social worker shall complete the standard referral form and submit it with any necessary additional referral information (e.g., law enforcement records) to the court within the applicable time period. (See a. and b., above).

2. Consent(s) for the Release of Confidential Information.

Prior to *or directly after* the hearing at which the request for the evaluation will be filed with the court, the social worker shall attempt to meet with the parent(s)/guardian/legal custodian who will be the subject of the evaluation to explain the purpose of the evaluation and to have him/her sign any necessary Consent(s) for the Release of Confidential Information. (Consent forms will be available from the department and the court). The social worker should *try to* anticipate the confidential records the evaluator may wish to review and draft a consent form for each record-holder (e.g., University Hospital and Clinics, Gateway Recovery, Madison Metropolitan School District). If the social worker is unable to meet with the parent(s)/guardian/legal custodian prior to the hearing, The social worker will bring consent forms to the hearing and will make every effort *to* have the forms executed by the parent(s)/guardian/legal custodian directly after the hearing.

Once fully executed, the consent form shall be attached to the referral form when the referral form is submitted as provided in 1. above.

3. Law Enforcement Records.

The social worker shall attach to the referral form, all law enforcement records in the department's possession regarding the child and his/her parents or caretakers that are relevant to the purpose for the evaluation. Secs. 48.396(1) and 938.396(1), Stats.

4. Distribute Brochure.

At the time of the hearing at which an evaluation is ordered, the social worker shall give the parent(s) (or guardian/legal custodian) a copy of the brochure entitled Court Ordered Evaluations: A Parents' Rights and Responsibilities. The social worker will attempt *to* answer any questions the parties may have about the evaluation process.

5. Tracking the Evaluation.

The social worker shall remain informed regarding the progress of the evaluation. If the worker determines that the evaluator's report will not be submitted to the court in a timely manner (at least 48 hours prior to the hearing), the worker shall consult with the parties in the case and make a recommendation to the court whether to proceed with the scheduled hearing or to set it over pending receipt of the evaluation. The court will make the final decision on whether to hold the hearing as scheduled or set it over. If the hearing is set over, the worker, in conjunction with the Clinical

Assessment Unit of the Mental Health Center of Dane County (CAU) shall continue to track the progress of the evaluation and notify the court and the parties if there continue to be any problems meeting the new completion deadline.

C. Clerk of the Juvenile Court

1. Tracking the Referral and Monitoring Timelines.
 - a. If the referral is not submitted to the clerk of the juvenile court within seven (7) working days of the date on the order (within two (2) working days for fast-track evaluations), the clerk will notify the Juvenile Court Administrator/designee who will notify, via e-mail, the social worker and the social worker's supervisor.
 - b. If the referral has not been submitted within ten (10) working days of the date of the order (four (4) working days for fast track), the Juvenile Court Administrator will notify, via e-mail, the CYF Mental Health Services Manager.
 - c. If the referral has not been submitted within fifteen (15) working days of the date of the order (seven (7) working days for fast track), the Juvenile Court Administrator/designee will notify the assigned judge/commissioner who entered the order for the evaluation.
2. Within one (1) working day of receipt, the clerk shall forward a copy of the order for the evaluation, the completed referral and any attachments, including consent forms, to the Clinical Assessment Unit
3. Fast-Track Evaluations. On the day the Clerk of the Juvenile Court receives the order and the referral information, the clerk shall telephone the current provider of the fast-track evaluations and arrange for the appointment of an evaluator. The clerk shall also immediately forward a copy of the order and the referral information to the evaluator

D. Clinical Assessment Unit (CAU)

1. Upon receipt of the referral material, the CAU shall assign an evaluator and send a written notice of the appointment to the individuals listed in 2, below. The notice shall include:
 - a. The name and contact information for the assigned evaluator
 - b. The name and contact information of the individual subject must contact if he/she objects to the named evaluator, and
 - c. Notice to the subject that if s/he objects to the assigned evaluator, within 5 working days of the date of the letter another evaluator will be assigned.
2. The notice shall be mailed to the following:
 - a. If an adult is the subject of the evaluation, to his/her attorney and to the adult directly.
 - b. If a child is the subject of the evaluation, to the child's guardian ad litem/attorney and to the attorney for the child's parent/guardian/legal custodian or to the parent/guardian/legal custodian directly if s/he has no attorney.

- c. The assigned social worker.
3. If the subject of the evaluation objects to the assigned evaluator within the 5 working day deadline, the CAU shall assign another evaluator and, as soon as possible, again send out the notice as provided in 1. and 2., above.
4. If no objections are registered with the CAU within the 5 working day deadline, at the end of the 5th working day, the CAU will mail a copy of the court order, referral information and all attachments, including the signed Consent forms, to the assigned evaluator.

E. Evaluator

1. Upon receipt of the referral material, the evaluator will schedule the necessary appointments. The evaluator should attempt to make contact with the subject for ten (10) days after receipt of the referral material. If necessary, the evaluator may ask the social worker to help in getting the subject's cooperation in scheduling an appointment. If the evaluator is unable to gain the subject's cooperation in scheduling the evaluation (defined as one "no-show" without prior call, "no-show" on a rescheduled appointment, two canceled appointments, or no response to calls/mail in 10 days) the evaluator shall contact the social worker. The social worker shall then inform the subject's attorney/guardian ad litem and the court. The social worker shall also attempt to gain the subject's compliance/cooperation (which could include a court hearing or conference). The evaluator and the social worker should document their efforts to contact the subject and await further direction on completing the evaluation.
2. Within 45 days from the date the evaluator receives the referral material, the evaluator shall complete the evaluation and submit his/her written report to the court. The evaluator shall also send a copy of the evaluation to the CAU.
3. Fast-Track Evaluations. The evaluator shall meet with the subject(s) of the evaluation within three (3) working days of receiving notice of his/her appointment. A verbal report, summarizing the evaluator's recommendations will be given to the assigned social worker within seven (7) working days of the notice of appointment. The written report of the evaluation will be delivered to the court within 21 days of the notice of appointment. A copy of the written report will be sent to the CAU with the evaluator's billing statement.
4. Exceptions to this timeline may be granted by the juvenile court at the time the evaluation is ordered or by the CAU, in consultation with the court if:
 - a. The nature of the evaluation or the subject's circumstances prevent completion of the evaluation by the original deadline; or
 - b. The best interests of the child are better served by extending the deadline for the evaluation.

In the event the court or the CAU grants an extension, the social worker shall confirm the extension, in writing, with both the evaluator and CAU.

4. Evaluators who fail to complete the evaluation within the applicable timeframe may forfeit payment for the evaluation and/or be removed from the provider list. Evaluators who fail or are unable to complete the evaluation shall return all of the referral material to the CAU.

F. When a Party Requests an Evaluation: Short-form Referral

If a party requests an evaluation, immediately after the hearing at which the evaluation is ordered, the party initiating the request shall complete a “short” referral form and the necessary “Consent(s) for the Release of Confidential Information” and shall, without delay, deliver to the court the completed referral and consent form(s). The social worker shall complete the standard referral form and attach any additional referral material deemed relevant to the evaluation (e.g., law enforcement records) and deliver the material to the court within the applicable time period. (See above, “Assigned Social Worker”, paragraph B.1.).

CONTENT OF EVALUATION REPORT

The report should include separate sections regarding each of the following topics:

- A. The presenting problem(s) as described in the referral materials provided to the evaluator.
- B. A description of the evaluator’s contacts with the subject(s) of the evaluation.
- C. A summary of the subject’s psychosocial history as the evaluator determines such information to be relevant to the information requested by the referral and/or to the extent the evaluator determines the history to be relevant to the evaluator’s ultimate recommendations to the court. The evaluator need not include the client’s psychosocial history if the evaluator is aware the information was previously provided to the court (i.e., the information is included in prior court report(s), evaluations, or documents, copies of which have been provided to the evaluator.) Instead, the evaluator should refer to these other documents in his/her report and not duplicate the subject’s history. However, if there are significant differences between the prior information provided to the court and the information developed by the evaluator during his/her evaluation process, or if the evaluator is aware that relevant historical information is missing from the earlier reports, the report should clearly highlight the added information.
- D. A description of nature of the evaluation, the identity of the persons interviewed, the particular records reviewed and any tests administered.

- E. The information and data gathered by the evaluator and the evaluator's interpretation of that information and data.
- F. The subject's DSM-IV diagnosis.
- G. The evaluator's opinion(s)/recommendation(s) related to the following:
1. The subject's care, supervision, treatment and/or service needs. If specific questions have been posed by the court, or included in the referral material, the evaluator should address and/or limit the scope of his/her inquiry to those questions. However, the evaluator should, using his/her best professional judgment, address and include any information/opinions/recommendations s/he determines to be relevant to the treatment and/or service needs of the child and his/her family and/or caretaker(s).
 2. The treatment and/or services that should be in place to meet the identified needs of the child and his/her caretakers and promote any necessary or recommended changes in the child or caretaker's behavior or attitude.
 3. The amount of care and supervision or structure the child needs in his/her placement.
 - a. The evaluator should identify the child's supervision, care and treatment needs and recommend the *conditions* of supervision and care that, in his or her opinion, would best meet those identified needs. The evaluator should *not* identify *specific* placement(s) unless requested to do so by the court (see b., below).
 - b. In CHIPS cases, the recommendation(s) described above may require an assessment of the parent(s)/caretaker(s)' ability to consistently meet the safety, nurturance, and dependency needs of the child. When the care-taking abilities of a parent/caretaker are being evaluated, in addition to identifying the strengths and weaknesses of the parent(s)/caretaker(s), the evaluator may be asked to recommend a specific parent/caretaker who can best meet the child's needs.
 - c. If the protection of the community is identified an issue in the case, a recommendation regarding the *type* of structure or supervision that will ameliorate the identified risk

JUVENILE COURT
POLICY/PROCEDURE

AUTHORITY OF JUVENILE COURT COMMISSIONER

POLICY

Unless otherwise specified by statute or ordered by the Court or indicated in Court Policy the Juvenile Court Commissioner(s) may make the necessary findings and conduct any uncontested proceedings under §48.12, §48.13, §938.12, 938.13, or 938.18 except the Commissioner may not place a child out of home pursuant to a petition under §48.13, §938.12, or §938.13 when there are potential Termination of Parental Rights issues to be addressed through notification of the parent(s) and/or setting conditions for return.

The Court Commissioner may, unless otherwise specified by statute, conduct, make necessary findings, and enter orders related to temporary physical custody decisions under §48.21 or §938.21 and conduct any hearings or enter findings and orders related to §48.125, §938.125, §48.17, and §938.17. The Commissioner may, on behalf of the Court, sign a Capias under §48/938.27.

The Court Commissioner may, in order to expedite cases in which a child is placed under a temporary physical custody order or in other cases where no party objects, order examinations or evaluations under §48.295(1) or §938.295, such order/decision subject to review by the assigned judge at the request of any party in the manner consistent with the review of temporary physical custody determinations.

The Court Commissioner has the same authority as Judges to appoint and/or remove Guardian Ad Litem for juvenile cases. The Court Commissioner also is authorized to make decisions related to disclosure of information to victims, to hear matters related to establishing a restitution amount if/when contested, issue orders requiring compliance with deferred prosecution agreements, conduct hearings/enter orders related to docketing unpaid restitution, and responding to other records requests related to disclosure of information related to criminal and other case matters.

EXCEPTIONS/COMMENTS

Refer to Policy on "Review of Commissioner's Orders" related to any reviews requested by parties of actions taken by the Court Commissioner.

JUVENILE COURT
POLICY/PROCEDURE

COURT COMMISSIONER HEARINGS AND RECORDS

POLICY

The Court Commissioner may conduct any hearings as provided for by Statute and/or other hearings or conferences as may be deemed necessary by the Court unless specifically prohibited by Statute or directed otherwise by the Judge.

All Court Commissioner hearings are audio-taped, and tape recordings of hearings will be kept by the Court for a period of five years.

JUVENILE COURT
POLICY/PROCEDURE

REVIEW OF COMMISSIONER'S ORDERS

POLICY

Commissioner's orders under §48.065(4) and §938.065(4) are, at the request of any party to the case, subject to review by the Judge assigned to exercise jurisdiction over the child. Judicial review and decisions related to the review shall be made as soon as possible but not more than 72 hours after the Branch receives the request for review.

PROCEDURE

A form to request Judicial Review of a Commissioner's Order is available from the Juvenile Court Commissioners Clerk. The requesting party is to complete the form and deliver to the Clerk. The Clerk will deliver the Request for Review, the juvenile's court file, and the audio recording to the assigned Judge as soon as possible.

Upon review, the Judge will issue a written decision. If the decision relates to a juvenile under Physical Custody, a copy of the decision should be delivered to Juvenile Reception Center. Juvenile Reception Center staff will contact all parties of the decision related to Physical Custody and make necessary arrangements to modify the form of custody as ordered.

JUVENILE COURT
POLICY/PROCEDURE

COURT REPORTS

POLICY

Unless otherwise directed by the Court, the Dane County Human Services Department is responsible for the completion of Court Reports in a manner consistent with §48/938.069(1)(d), §48/938.293(2), §48/938.33, and §938.331 of Wisconsin Statutes.

Workers assigned by the department shall prepare a written report for use at all Dispositional and Extension hearings and shall file the report with the Juvenile Court Office or the Judge's office no later than two working days prior to the time of the hearing. It is the responsibility of counsel and/or other parties to seek access to any such reports prior to the day of the hearing.

Waiver of the requirement for filing a written report may be granted by the Court if authorized by statute.

PROCEDURE

Court reports should be provided to the Judge's office and should be "time-stamped" upon receipt.

Additionally, procedures and requirements governing the filing and content of court reports include the following:

1. In Delinquency cases, workers are encouraged to submit completed Delinquency Assessment/Court Reports at or before the time of the Plea Hearing. This encouragement is given in an effort to expedite the court process toward meeting the needs of those juveniles and their families who have completed the assessment process.
2. For Pre-Trial (or Plea/Disposition) hearings on pending Delinquency petitions, workers are not required but are encouraged to prepare and bring to the hearing written reports in cases where they believe that an adjudication/disposition will occur. These reports should be filed with the court prior to the hearing if possible.
3. It is anticipated that most CHIPS cases will result in a scheduled dispositional hearing in which the report will be filed with the court two working days prior to the hearing. If the petition is uncontested, reports may be filed with the court at the plea hearing, or at any hearing thereafter if the worker has completed his/her assessment and planning and is prepared to make recommendations to the court. Copies shall be provided to the court office and all parties.

4. In cases of multiple-child families, a single report addressing the individual needs of each child may be prepared, but in such cases additional copies shall be filed so that each child's court file will have a copy.
5. Workers shall make a diligent effort to discuss the content of and recommendations in the report with parents, children over 10 years of age, and others directly affected by the recommendations and shall allow the recommendations portion of the report to be read by such persons.
6. Attorneys shall have the right to receive and retain a copy of the report, but they may not allow any report to leave their presence. They may discuss the substance of the report with their client. CASA Volunteers may be provided a copy of the report by the Social Worker or Court without additional approval.
7. Upon request parties not represented by counsel may be given copies of the report by the Court. No party receiving the report in this manner may disclose to any other person any report or part thereof.
8. In all reports recommending that a child be placed outside his/her home, the worker shall propose specific findings to be made on all matters necessary to support such out-of-home placement as may be required in Chapters 48 or 938.
9. For services for which payment may be required as recommended by the social worker, the worker will recommend who is to be responsible for payment. For payment of services requested by another party, the requesting party is to clarify payment issues prior to the court entering an order.
10. Reports for Revisions or Change of Placements are not required unless the proposed change of placement is from home to out-of-home. Workers are reminded that the petition(s) or proposal(s) for such changes must follow the requirements of Chapters 48 or 938.
11. Reports are required for Extension hearings, and the report should follow the requirements of §48.365(2g)(a) or §938.365(2g)(a). The report need not duplicate information in the petition or prior court reports.

EXCEPTIONS/COMMENTS

The Court may allow the waiver of the filing of Court Reports unless otherwise prohibited by statute, but in the event of granting such a waiver shall direct that a written report be filed in not more than 5 working days from that date unless otherwise permitted by statute.

For the limited purpose of providing necessary treatment services or for the development of a treatment plan for a child/family, a Social Worker may at his/her

discretion, share information from the Court Report which will facilitate others providing services to the child/family or department pursuant to a contract, sub-contract, agreement, or court order. That person shall not further disclose that information without prior court approval.

Electronic Submission of Court Reports

The submission of electronic copies of reports is not a substitute for nor does it eliminate the expectation that hard copies of court reports be submitted to the court at least 2 working days ahead of any hearing scheduled as a disposition (and, as noted in current policy in other cases in which the worker believes the case will be going to disposition even if not scheduled as such). The submission of court reports electronically is only to be done when extenuating and unforeseen circumstances prevent the submission of the report ahead of time as required.

If a worker is sending the report electronically:

1. The e-mail that includes the attached report should be sent to all of the following simultaneously: The Judge, Branch Clerk, Branch Secretary, DA's/Designees, assigned defense counsel and/or guardian ad litem. It is the Social Worker's responsibility to get e-mail addresses and the address line must show all recipients. If one recipient cannot receive the document by e-mail, then e-mail may not be used to transmit the Report.
2. The e-mail should include a brief statement about what the circumstances were or what change occurred that resulted in the written report not getting to the court 2 days ahead of time as required.

The Court Clerk and/or Judge will print one copy of the report for review by the Judge. The Worker should then still submit the required written copies to the court as soon as possible, ultimately up to the time just prior to the hearing itself. Reports brought by the Worker should always be delivered personally to the Court Clerk so they can be "stamped in"/documented appropriately.

JUVENILE COURT
POLICY/PROCEDURE

**NOTIFICATION OF SCHOOLS
FOR JUVENILES ALLEGED/FOUND DELINQUENT**

POLICY

Pursuant to §938.396(2g)(m)1 if a petition filed under §938.12 or §938.13(12) is filed alleging that the juvenile has committed a delinquent act that would be a felony if committed by an adult, the court clerk shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee of the fact that the petition has been filed and the nature of the delinquent act alleged in the petition.

Additionally, pursuant to §938.396(2g)(m)2, if a child is adjudged delinquent, the court clerk will notify, within 5 days of the disposition the school district of the fact that the child has been adjudicated delinquent and the nature of the disposition. If the proceeding on the petition is closed, withdrawn, or otherwise terminated without a finding that the juvenile has committed a delinquent act, the court clerk shall notify the school board that the proceeding has been terminated without a finding of delinquency.

In the event a condition of supervision resulting from a delinquency finding is attendance at school, the clerk will simply proceed to notify the school board of the school district in which the child is enrolled of the fact that the child has been adjudicated delinquent and that a condition of the disposition is school attendance pursuant to 938.396(2g)(m)3.

PROCEDURE

As part of the process of filing and entering a petition on the CCAP system, for those petitions alleging that the juvenile has committed a felony, the staff member(s) entering that information shall prepare and send the required notice to the School District in a form and manner approved by the Clerk of Courts.

At the time of preparing the Court Order in which the juvenile is adjudged delinquent, the Notice to the parent or school district and/or principal as required by statute is to be prepared. For hearings conducted by the Judge, the Branch Clerks are responsible for this function. For hearings conducted by the Commissioner, the Juvenile Court office staff are responsible.

EXCEPTIONS/COMMENTS

Note that it will be necessary, based on information provided by the petitioner, for Clerks to determine the appropriate school district or official in those cases where notice will be required.

JUVENILE COURT
POLICY/PROCEDURE

**NOTIFICATION OF THE DEPARTMENT OF JUSTICE
FOR DELINQUENCY FINDINGS (FELONY)
AND NOTIFICATION OF THE JUVENILE OF FIREARM RESTRICTIONS**

POLICY

Pursuant to §938.396(2g)(n), the Court will notify the Department of Justice if a child is adjudged delinquent for an act that would be a felony if committed by an adult.

Pursuant to §938.341, whenever a court adjudicates a juvenile delinquent for an act that if committed by an adult in Wisconsin would be a felony, the court shall inform the juvenile of restrictions on the possession/use and penalties under §941.29 and shall notify the Department of Justice of that fact.

PROCEDURE

The Clerk completing the order or minutes related to the finding of delinquency for an offense that would be a felony if committed by an adult will complete an electronic form for the notification of the Department of Justice which includes the name of the juvenile and the adjudicated offense. Only required information will be provided, including the case number of the case for which the juvenile was found delinquent.

JUVENILE COURT
POLICY/PROCEDURE

**GUIDELINES FOR RESTITUTION AND COMMUNITY SERVICE
DISPOSITIONS**

POLICY

The Juvenile Court will maintain guidelines to be used by the Court in ordering a juvenile to complete restitution and/or community service obligations under §938.34(5) or (5m). Modifications of the guidelines established below may be made at the discretion of the Court, considering the following factors:

- The maximum impact of the order on the child, considering that the initial impact of performing Community Service is achieved in 12-48 hours. The impact of increased hours on services available, considering there are limited placements and staff supervision available for all juveniles referred
- The importance of the obligation relative to other aspects of the treatment or supervision plan. Priority may be given to other treatment or supervision components
- The age of the juvenile, considering that younger children are more difficult to place
- Other physical, behavioral, or mental characteristics of the juvenile may affect the ability of the program to place or monitor the juvenile
- Other time commitments of the child may reduce the time available for Community Service work or employment
- Geographic or transportation factors that may limit/enhance the juvenile's ability to be placed and have access to employment/community service work

GUIDELINES

In all cases, the program implemented shall be of a constructive nature designed to promote the accountability of the juvenile and restoration of the community/victim, shall be appropriate to the age level and physical ability of the child, and may be combined with other counseling, treatment, or supervision services.

Related to Restitution, Social Workers are encouraged to recommend 100% restitution for documented losses as determined by the District Attorney's office. When multiple offenders are involved, division of restitution should involve those individuals able to complete restitution. For juveniles age:

- 16 or 17, a recommended limit is \$1,000 per individual per disposition
- 14 & 15, a recommended limit is \$500 per individual per disposition
- 12-13, a recommended limit is \$250 per individual per disposition
- 10-11, a recommended limit is \$100 per individual per disposition

Exceptions to these limits may be made if the juvenile can demonstrate an ability to pay costs higher than the recommended amount(s) (e.g. has savings).

Related to Community Service the following guidelines should be considered:

Offense Level of Most Serious Concurrent Charge	Recommended Hours 1 st referral for Community Service & 1-3 concurrent counts/petitions	Recommended Hours 2 ^{nd+} Adjudication or 4+ concurrent counts/petitions
Category I Class B & C Misdemeanors	12 Hours	24 Hours
Category II Class A Misdemeanors	24 Hours	36 Hours
Category III Class C, D, & E Felonies	36 Hours	48 Hours
Category IV Class A & B Felonies	48 Hours	48 Hours

Ordering Community Service for a third time for a juvenile should be done rarely, considering the length of time between orders, nature of offense(s), and other dispositional options that may better address the needs related to treatment and supervision of repeat offenders.

For youth ages 10-11 who are ordered to participate in other community-based intervention programs no additional community service should be ordered

Combinations of Restitution and Community Service in one disposition may be considered if necessary, but the total time commitment for the juvenile to complete the obligation along with other time commitments should be considered.

PROCEDURE

The Restitution Specialist in the District Attorney's office has the responsibility for gathering the information and preparing a recommended amount for restitution to be provided to the Social Worker, District Attorney, and the Court. Copies of all court orders which include Restitution or Community Service to be supervised by the Youth Restitution program shall be sent to YRP by the branch/office entering the order. Referrals by Social Workers with additional information related to the juvenile must be sent to YRP within 5 working days of the order being entered.

EXCEPTIONS/COMMENTS

To the degree possible, all amounts related to restitution shall be determined and provided to the court prior to disposition so that any disagreements about amounts can be resolved at that time.

All parties should keep in mind that, although it is the hope that victims will be fully compensated for any loss or damage, that they do retain rights to proceed with a civil action in the event they have not been fully compensated (See Policy on Disclosure of Information to Victim's of a Child's Act).

Pursuant to statute and procedures developed by the Clerk of Courts, in the event a juvenile fails to pay restitution as ordered, the victim, victim's insurer, DA, Corporation Counsel, or supervising agency may petition the court to have the amount of unpaid restitution docketed as a judgment against the juvenile/parent.

JUVENILE COURT
POLICY/PROCEDURE

VENUE TRANSFERS

INTRODUCTION

A number of counties in Wisconsin have entered into an Inter-County Agreement related to Jurisdiction and Venue on Delinquency and CHIPS matters. While the Agreement entered into by the Department is not binding on either the Court or the District Attorney, it does provide guidelines which will generally be followed relative to the handling of these cases.

The general underlying principle is that the county where the child resides with parents is the most appropriate place for a case to be handled.

The Policies/Procedures incorporated in this manual are relevant parts of that agreement. The entire agreement includes other guidelines related to custody intake, court intake, and inter-county communications related to solving problems with inter-county cases.

POLICY

As a general rule, venue for any juvenile court proceeding under 48.12, 938.12, 48.13, 938.13 and 938.18 shall be in the county where the child resides with parents. If a child is residing outside of the county of the parents residence, venue will be in the county of the parents residence if the child has been placed outside of the parental home under a court order or under a voluntary agreement. If the parents were not living together at the time of the court ordered or voluntary placement, venue will be in the county where the parent having physical custody at the time of the child's placement now resides.

For a child living with relatives (including "non-legal" custodial parent), venue will be determined on a case by case basis.

If the District Attorney files a petition contrary to these guidelines, the department will immediately contact the home county department to discuss the status of the case and work toward a mutually agreeable dispositional recommendation. The home county will assist by providing information, reports, and/or possibly testifying at any dispositional hearing in the petitioning county.

If parents of a child move to another county after the filing of a petition which results in an out of home placement, the county of the juvenile court making the dispositional order for placement will retain liability for the costs of such care. If the parents of a child in placement move and maintain residence in another county for at least six months before the time revision of a court order is needed to provide supervision of a child

in the parental home (i.e. child returning to parental home), the court making the original order may transfer jurisdiction of the case to the county where the parents now reside for hearing on the revision matter.

In situations where a matter resulting in placement is heard in a county other than the home county, based on a decision of a District Attorney to petition in that county, jurisdiction and the attendant liability for costs of care will be transferred back to the home county at the time of disposition **as long as the home county** has been involved in the development of a court recommendation **and concurs** with the need for placement.

In addition, Sec. 938.185(1)(c) provides for a transfer of proceedings from one county to another (where the juvenile resides) after adjudication and prior to disposition if the court of the county of residence agrees to that transfer.

PROCEDURE

Receiving Venue Transfers from Other Counties:

In cases in which a Change of Venue order from another county is received, the the Juvenile Court Commissioner Clerk will send a copy of the findings and order changing venue to the Assistant Corporation Counsel for Human Services, 4th Floor Northport. The accompanying files documents will be placed in a newly opened juvenile file and entered into the CCAP computer system.

HSD will check the current service status, if any, of the child in Dane County and review the order and findings as needed to confirm that the change was made in compliance with the Inter-Agency Agreement. If some immediate service is necessary, the Assistant Corporation Counsel will refer the case immediately to an HSD unit. If the venue change does not appear to meet the criteria in the Inter-Agency Agreement, the Assistant Corporation Counsel will prepare a letter, with a copy to the Juvenile Court Commissioner Clerk, to the referring county explaining the reasons that the change does not appear proper. The Court will file that letter in the juvenile's court file and retain the records until such time as there is a change in the Venue Order, if any occurs.

Additionally, the Clerk will send a copy of the underlying petition and the change of venue order to the Deputy District Attorney for Juvenile cases.

Sending Venue Transfers to Other Counties:

In cases in which a Dane County Juvenile Court Judge transfers venue to another county, the proper documents and records will be sent to the new county by staff in the Clerk of Courts office. Copies of the order transferring venue will be retained in the juvenile's Dane County file in accordance with procedures established by the Clerk of Courts.

Accepting Venue Changes Between Adjudication and Disposition

In the event the court receives a notice related to a venue change between the time of adjudication and disposition (e.g. notice of hearing, order for venue change, etc.) the Juvenile Court Commissioner Clerk will proceed as above but immediately FAX a copy of the motion/order to the HSD Corporation Counsel and provide a copy to the Juvenile Court Intake Coordinator, Public Defender's office, and the District Attorney's Office. Concurrently, the clerk will draw a judge for assignment, create a court file, and set the matter for disposition in 21-30 days. Within 10 working days, the Human Services Department, Public Defender, and the District Attorney will provide a written recommendation to the assigned judge related to "accepting venue". If there is no objection to accepting jurisdiction, the court shall notify the originating county of that and proceed with disposition as scheduled. If, upon reviewing the recommendations of the parties, the court decides not to agree to the venue transfer, the court will notify the originating county of that fact and cancel the dispositional hearing scheduled here. If there is not an agreement among the parties, the court may, at its discretion, schedule a conference to review this decision. If the conference cannot be scheduled prior to the sending county's action related to transfer, the court branch will send notice to the sending county that venue is not accepted until further notice..

If a hearing on the venue change in the originating county is scheduled in the originating county within 14 days of receipt of the notice, the Clerk shall send a notice to the originating county that the matter is under advisement and that the venue transfer is not accepted until further notice.

JUVENILE COURT
POLICY/PROCEDURE

COMPETENCY AND NGI EVALUATIONS

POLICY

Pursuant to §938.295(2)(a) the court shall order an evaluation of the child if there is probable cause to believe the child has committed the alleged offense and there is reason to doubt the child's competency to proceed, or upon entry of a NGI plea under §938.30(4)(c).

PROCEDURE

Competency and NGI evaluations are not brokered through the Clinical Assessment Unit as is the case for psychological, psychiatric, and AODA evaluations. Therefore, the Court is responsible for assigning evaluators and payment.

The branch ordering the evaluation is responsible for:

1. Appointment of the evaluator.
 - a. The branch will contact an evaluator to determine if they are willing and able to complete the initial evaluation and written report within the prescribed time limits and if they are willing to complete subsequent three-month re-evaluations (only for Competency evaluations when education to competency is ordered) during the next 12 months, if necessary. Unless special circumstances exist, evaluations will be done on an out-patient basis. For children in the Detention center, it is preferable for the evaluator to meet with the child in JRC. If this is not possible, arrangements need to be made with the Sheriffs Office for transportation.
 - b. A list of evaluators is provided to assist the branch. The list is by no means all-inclusive, but merely an attempt to streamline this process. The listed evaluators have received special training on Competency and NGI evaluations. All are aware of the statutory time limits. Additionally they have expressed a willingness to meet with Detention residents in Detention. The branch is free to appoint a qualified evaluator not on the list, but would need to ascertain whether the evaluator feels qualified to complete, and testify to if necessary, this type of evaluation on a juvenile and if they are willing to complete subsequent three-month re-evaluations (only for Competency evaluations when education to competency is ordered). If they cannot commit to doing so, other evaluators should be contacted.
2. Preparation of the Order.

- a. Specify, in the order, the date by which the report must be filed so as to give the assigned attorneys a reasonable opportunity to review the report. A formatted order that specifies the questions to be addressed is available on the M: drive.
 - b. Mail to the evaluator a copy of the order, the petition, any social worker reports, and/or evaluations contained in the court file. (If the child is in the Detention center, the order and materials can be dropped off in JRC.).
 - c. Mail to the evaluator a copy of the JIPS order if three month re-evaluations are ordered.
 - d. Other copies of the orders are to be sent to the assigned attorneys, social worker, child, and parent(s)/guardian.
3. Distribution of the completed evaluation.
- a. The evaluator will mail the completed evaluation, including 3 copies, and their bill for service directly to the branch.
 - b. Copies of the evaluation should be sent to the assigned attorneys and the social worker.
 - c. The bill should be forwarded to the Courts Division Manager-Juvenile of the Clerk of Courts Office for payment.

EXCEPTIONS

When an attorney requests, and the Court authorizes, an evaluator not on the approved list, it will be the attorneys responsibility to contact the evaluator and ask if the evaluator is qualified and is available to complete the evaluation(s) within the prescribed time limits. The attorney will notify the court of the evaluators acceptance, or refusal, within 24 hours for a child held in secure custody and within 48 hours for a child not held in secure custody. The branch will still be responsible for getting the order and other materials to the assigned evaluator.

TIME LIMIT GUIDELINE

Competency Hearings should be held within 10 days for a child in secure custody and within 30 days for a child not held in secure custody. If the 10th or 30th day falls on a weekend or holiday, the hearing may be scheduled for the following work day. NGI Hearings are controlled by statutory time limits.

EDUCATION TO COMPETENCY/ RE-EVALUATIONS

In the case of a competency evaluation being ordered and received wherein the evaluator recommends and the court finds that the juvenile is not competent to proceed but is likely to become competent to proceed within 12 months or within the time period of the maximum sentence that may be imposed on an adult for the most serious delinquent act with which the juvenile is charged, whichever is less, the court may proceed under a JIPS petition (or in certain circumstances, a Chapter 51 petition). The Court may elect to include a provision in the JIPS dispositional order that the juvenile cooperate with competency education. The Court must include a provision in the JIPS dispositional order that the juvenile be periodically re-evaluated with written reports every three months, as provided in § 938.30(5)(e). Every effort should be made to insure that the same evaluator who did the initial competency evaluation will do these periodic re-evaluations. As soon as possible after the JIPS dispositional hearing, clerks will notify the Juvenile Court Administrator of the need for competency education, will forward the court order for competency education to JRC and will forward the court order for re-evaluation to the assigned evaluator.

Unless the juvenile is placed in an institution under a Chapter 51 proceeding, the Department of Human Services and/or Juvenile Court Program will have staff available who are trained to provide the competency education. The assigned Juvenile Court staff will communicate with the Social Worker to gather copies of the evaluation, re-evaluations, court report and any other pertinent documents, and will communicate with the Social Worker as the education process occurs. The assigned Juvenile Court staff will also communicate with the evaluator if the evaluator initiates contact and seeks information about the competency education. The education is complete when the juvenile can demonstrate an understanding of the court process to the educator and further demonstrate that the juvenile can likely assist in their defense. A variety of materials are utilized with the juvenile to assist in the education process.

The DCDHS Social Worker working with the juvenile will track timelines and contact the evaluator to insure that the re-evaluations are completed at three month intervals. The Social Worker will also coordinate with the branch clerk every three months to be sure that the re-evaluation report has been received. Once received, branch staff will provide the DA, the defense attorney and Social Worker with the re-evaluation report.

If the re-evaluation report indicates that the evaluator believes the juvenile has become competent, the court shall hold a hearing as soon as possible, no more than 10 days after the court receives the report. The clerk will schedule the hearing and notice all parties.

While not mandated by statute, consideration should also be given to scheduling a hearing under either of the following scenarios. First, if the evaluator believes that the juvenile is not yet competent, but still able to attain competence within the time that remains, and if the competency education has been deemed complete by the educator, the Court may wish to hold a hearing to review the matter. Alternatively, the Court may contact the Juvenile Court Administrator with the directive to have the competency

education continue. The second scenario is if the evaluator believes that the juvenile is not yet competent and is unlikely to attain competence in the time that remains, the branch should consider holding a hearing to deal with the possible dismissal of the underlying delinquency petition and to discuss the status of the ongoing JIPS supervision.

JUVENILE COURT
POLICY/PROCEDURE

PARENTAL SUPPORT FOR CHILDREN PLACED IN SUBSTITUTE CARE

POLICY

Pursuant to statute §938.275(1) or §48.275(1) the Juvenile Court will order that parents provide support payments to the department for children placed in substitute care (foster home, group home, child caring institutions) or in a non-secure or secure facility by the court. Pursuant to §46.10(14)(b), a support order issued for this purpose constitutes a wage assignment of all commissions, earnings, salaries, wages, pension benefits and other money due or to be due in the future to the county department, depending on the placement of the child and rules developed by the department.

Orders for parental support entered under these provisions shall supersede any other court ordered payment for child support for the period during which the child is placed out of the home and/or an amount of liability remains outstanding.

PROCEDURE

Roles of Clerk of Courts and Department of Human Services

Responsibility for determining the amount of parental support to be ordered lies with the Department of Children and Families based on information provided to the department by the parent(s) and percentage guidelines established by the Wisconsin Department of Children and Families in DCF 150. The Clerk of Courts is responsible for providing notice to the parent(s) related to their obligations under these statutes and the necessary forms and other materials on which they will provide a statement of income/assets to the department. The Clerk of Courts is also responsible for processes related to filing of these orders with the necessary parties to ensure proper payment. The Court (Judge or Commissioner) is responsible for approving or modifying the recommended support payment and entering an order for payment. In this regard, the Court may modify the amount of support recommended by the department pursuant to criteria provided by statute (§46.10(14)(c)).

Procedural Steps to Determine Amount and Enter the Support Order

To accomplish this process, including the required prior notice to parent(s) of potential liability for cost of care, the following general procedures will be in place:

1. At the time of either a physical custody hearing or plea hearing or any other hearing at which it becomes apparent that out of home placement may be a possibility, the Court (Judge or Commissioner) will inquire if out of home placement is a possible or likely outcome of the eventual proceedings. If so, or in other cases at the

discretion of the Court, the Clerk will provide to the parent(s) present both notice of this liability and a packet of forms and other information necessary for the parent to provide a proper statement of income/assets to the department upon which the amount of liability will be determined. Prior to distribution of the order and form(s), the Clerk will complete the Order for the Judge/Commissioner signature and complete the informational box on the financial statement (next court date, assigned judge, room number and social worker assigned). The Court will also enter an order, with a copy to that parent(s) and department which orders the parent(s) to complete and provide to the department the necessary information within seven days of the order date.

2. Upon receipt of the income/assets disclosure information, the department will determine the recommended level of support and provide that information to the parent(s) and the social worker assigned to the case. That information will be provided to the Court at the time an order is entered for placement.
3. At the time of disposition, the parent may contest the amount of support recommended by the department based on certain factors provided in the statutes. If possible and if time permits this may be done at the same time as the hearing held to determine disposition. If time does not permit this to be addressed at the time of disposition, the Court may refer that portion of the matter to the Commissioner for scheduling and resolution.
4. In the event of **non-compliance** on the part of the parent in completion of the Disclosure of Income & Assets forms, the recommended amount of payment will be determined by the department to be the **full cost of care/month**, based on the type of placement ordered. In that case, the Court will enter an order for the full amount of payment (actual dollar amount to be provided by the department).
5. In the event the income/asset(s) information is not completed for reasons **other than non-compliance** (e.g. time problems, errors in providing forms, etc.), the Court shall enter an order that provides that the parent pay the cost of care to be determined by the department within 30 days (assuming compliance on the part of the parent(s)). If that is the case, the department will proceed to determine the amount and provide that to the parent(s) along with information explaining their rights relative to contesting the amount. If the amount is not contested, the department will forward to the Commissioner an order to be signed which includes the amount determined and confirmation that the parent(s) have been notified of the amount and have not indicated the intention to contest the matter. If the parent(s) does wish to contest the amount the department will request that the matter be scheduled with the Commissioner for a hearing at a time to be determined by the Court.

In any case in which a support order is entered, the order shall contain the amount each parent is liable for during the period of the child's placement.

Issues Related to Wage Assignment

Statutes provide that the order entered under these provisions becomes an assignment of wages and other income. In the event of non-compliance on the part of the parent(s) to pay the ordered amount(s), the department will provide to the Commissioner a Wage Assignment letter that will be filed with the parent(s)' employer. Upon signature of that letter, the Clerk of Courts will mail the letter to the employer and provide copies to the parent and any other support-related agency that may be working with the parent/child (i.e. IV-D).

The department is responsible to notify the court to discontinue the wage assignment at such time as the obligation is completed or otherwise modified. Again, the Commissioner will sign the appropriate letter/form to terminate the wage assignment and the Clerk will forward copies to the necessary parties.

EXCEPTIONS/COMMENTS

There are several issues to be aware of relative to this policy/procedure:

1. The majority of the provision of necessary **notice** and forms will likely be accomplished by the Commissioner and Juvenile Court Commissioner Clerk during the Plea Hearing process. However, there may be situations (esp. in the instance of extensions or change of placement hearings) in which the Judge and Branch Clerk will be responsible for accomplishing the notice and provision of information and entering the order for disclosure of income/assets.
2. There are numerous procedures developed by the department and the Clerk of Courts relative to issues of determination of the liability, the filing of orders for payment and wage assignment, and the overlap of these support orders with existing or subsequent child support orders that provide that the parent is assessed the proper amount, that the proper parties receive information of the order/assessment, and that the order is amended or terminated at the proper time. These procedures are not included in this policy but may be available through the Clerk of Courts office or Department of Human Services.
3. The parent(s) is responsible for the cost of care beginning from the first date of placement through termination of that placement. In cases in which there is an outstanding liability after the time a child is actually placed out of the home, the order for payment and, if necessary, the wage assignment will remain in effect until such time as the obligation is fulfilled.

JUVENILE COURT
POLICY/PROCEDURE

**FILING COURT DOCUMENTS INVOLVING JUVENILES
WITH MORE THAN ONE CASE FILE**

POLICY

Each juvenile file must be "self contained" and include all relevant document filings (petitions, motions, reports, correspondence, etc.) as necessary for the court to consider information pertaining to that petition. Parties filing documents with the court are required to submit sufficient copies in order that a copy may be placed in all relevant files (each petition for each child/juvenile will have a separate file).

The court may, at its discretion, decline to consider any information not properly submitted for filing by any party.

PROCEDURE

Parties filing documents with the court shall file sufficient copies of the document so that a copy may be placed in all relevant files. The original document may contain the file numbers of all relevant files and subsequent copies may highlight the file number for the related files in which the document should be placed.

JUVENILE COURT
POLICY/PROCEDURE

APPOINTMENT OF CASA VOLUNTEERS

POLICY

The Court may appoint a CASA (Court Appointed Special Advocate) Volunteer to a case according to guidelines developed by the Court in conjunction with the CASA program and the recommendation of the Social Worker and/or Guardian Ad Litem assigned to a child's case.

CASA Volunteers are permitted to attend any court hearings related to the child to which they are assigned and may receive necessary information from the Social Worker or Guardian Ad Litem as may be necessary to carry out their duties as a CASA Volunteer as permitted in these policies.

PROCEDURE

When the CASA Program is recommended by a Social Worker or Guardian Ad Litem the appointment of the CASA volunteer should be included in the dispositional order, and the court will send a copy of that order to the CASA program. If a referral for a CASA Volunteer is part of the disposition (not yet assigned), when docketing the case the Juvenile Administrative Staff will send a copy of the order to the CASA program and note that was done.

JUVENILE COURT
POLICY/PROCEDURE

PERMITTED ATTENDANCE AT COURT HEARINGS

POLICY

Pursuant to §938.299(1)(a), the general public is to be excluded from hearings under §938 unless a public fact-finding hearing is demanded by a juvenile through his or her counsel. Statutes provide for exceptions related to whether or not this demand must be honored, and in general, what other parties may attend as determined by the court.

Statutory exceptions to the above general principle of hearings not being open to the public are:

- (1) A **victim** of a juvenile's act/alleged delinquent act may attend any hearing. A **member of the victim's family** or a **representative from an organization providing victim support services** may attend. Certain exclusion apply related to matters dealing with sensitive personal matters of the juvenile or juvenile's family. (Reference §938.299(1)(am)). Victims are not permitted to further disclose information obtained at the hearing unless necessary to commence civil action or otherwise permitted by statute.
- (2) The **general public** (including news media) may attend any hearing related to a felony delinquency allegation for a juvenile who has been adjudicated delinquent previously and that previous adjudication remains of record and unreversed. Certain exclusions apply related to objections that may be made by victims of sexual assault or those portions of proceedings that may deal with sensitive personal information regarding the juvenile or juvenile's family. Additionally, the **general public** (including news media) may attend any hearing for a juvenile alleged to have committed a felony classified as part of the Serious Juvenile Offender Program (refer to list in §938.34(4h)(a).

PROCEDURE

Persons permitted to attend a hearing based on this statute should be directed to the assigned bailiff.

EXCEPTIONS

The court may exclude persons from hearings otherwise permitted by statute in the event of space or safety constraints resulting from inadequate space in which to adequately separate or monitor parties.

JUVENILE COURT
POLICY/PROCEDURE

RECOUPMENT OF LEGAL FEES

POLICY

Pursuant to §48.275(2) and §48.275(2) the court shall order parents of children subject to proceedings under Chapters 48 or 938 to reimburse the state and county for costs of legal services provided to their child/juvenile.

PROCEDURE

To implement this policy, the following steps are taken:

1. Notice of required recoupment legal fees is provided to the client by SPD when counsel is appointed.
2. Upon completion of the proceeding(s) or at such time as the state is no longer providing legal counsel, the Court shall order the parent(s) to make payments to the Clerk of Circuit Court in the amount of \$480 for felony delinquencies and \$240 for all other cases, unless otherwise determined by the SPD office. Multiple count petitions are assessed the same amount as single count petitions, and combination felony/misdemeanor petitions are assessed as a felony petition. Branch staff should complete the recoupment order, have it signed, and forward it with the file to The Juvenile Court Commissioner Clerk.
3. In the event that the parent(s) request an indigency determination, SPD will provide the form and conduct the evaluation upon request and notify the court of that determination. The Court will issue an amended order by completing the Amended Reimbursement Order section of the form from SPD. The SPD will send the Public Defender Order Appointing Council form to the Juvenile Court Commissioner Clerk.
4. Recoupment payments are to be mailed or personally delivered to the Clerk of Courts, Room 1000, and receipted under the CCAP JLF financial code.
5. The Clerk of Circuit Court will continue to report the number of cases, amount(s) ordered, amount(s) amended, and amount(s) collected to SPD on a quarterly basis.

JUVENILE COURT
POLICY/PROCEDURE

VICTIM/WITNESS SURCHARGE

POLICY

Pursuant to §938.34(8d), in addition to any other delinquency disposition, the court shall impose a delinquency victim and witness assistance surcharge in an amount determined by statute. This fee is to be assessed on a "per disposition" basis.

The court may provide up to 60 days for payment but reserves discretion to shorten or lengthen the time required for payment.

PROCEDURE

At the time of disposition, the court shall determine the amount to be assessed and include that surcharge in the court order.

The court clerk will provide the juvenile/parent with the information necessary related to the payment (e.g. where to send payment, due date, etc.).

JUVENILE COURT
POLICY/PROCEDURE

USE OF STANDARD PLEA QUESTIONNAIRE & WAIVER OF RIGHTS

POLICY

In any delinquency case, before a plea to any charge that will result in an adjudication is accepted, Form JD-1737 (Plea Questionnaire/Waiver of Rights) shall be fully completed and provided to the Court unless otherwise ordered by the Judge or Court Commissioner. The form shall include the elements of the offense(s) to which a plea will be entered or have copies of the applicable jury instructions attached.

PROCEDURE

The required form will be available in the Juvenile Branch offices and in hearing room 2A. Prior to the Plea Hearing, the attorney representing the juvenile should ensure completion of the form as required above and provide it to the court at the Plea Hearing.

JUVENILE COURT
POLICY/PROCEDURE

DISCLOSURE OF INFORMATION TO VICTIMS OF A CHILD'S ACT(S)

POLICY

Chapter 938 does not provide for a process by which the court may release information from its records to victims for the purpose(s) of pursuing civil action. Therefore, for **petitions filed** as of July 1, 1996 the court will no longer authorize release of that information.

PROCEDURE

If the victim needs the information in order to begin a civil action he/she may request that information from the law enforcement agency handling the case. In the event that the law enforcement agency's policies do not permit release of that information, the victim may petition the court to authorize release of the law enforcement information. That request should be sent to the Juvenile Court Commissioner Clerk and be reviewed by the Commissioner. The Commissioner will review the request and simply authorize/not authorize release of that information to the victim.

EXCEPTIONS/COMMENTS

Note that statutes do provide for various persons/parties to review/access court records (refer to policy on Access to Court Records), including authorized representatives of a victim's insurer. Therefore, in some cases it may be possible for a victim to gain access to the information through that procedure.

JUVENILE COURT
POLICY/PROCEDURE

**PETITIONS FOR EXTENSION, REVISION, CHANGE OF PLACEMENT
AND REVOCATION OF CONSENT DECREE**

POLICY

Except in emergency situations in which a change in circumstances prevents the timely filing of the above petitions, all such petitions filed by the Department, Corporation Council or the District Attorney for cases in which supervision is expiring must be filed at least **60** days in advance of the expiration date.

Note that in the event a Permanency Plan Review will be conducted by the Court as well as any Extension, Revision, Change of Placement request, the Request for conducting that review must also be made 60 days in advance of the expiration of supervision due to the lengthy notice requirements related to Permanency Plan Reviews.

Temporary Extensions of supervision must be approved by the Judge and may only be approved upon the provision of information that extended supervision is necessary to protect the welfare of the child and/or the immediate safety of the public.

Requests for the Revocation of a Consent Decree should be filed with the Court official approving the Consent Decree at least 40 days in advance of expiration, since a Temporary Extension of the Consent Decree is not possible.

Requests for Extensions, Revision, Change of Placement and/or Revocation of Consent Decree **must** include the proper petition number and letter suffix (a letter suffix is used for the second and all subsequent petitions related to any juvenile) on which the Court is to act.

PROCEDURE

Petitions under this policy (note the exception for Consent Decrees entered by the Commissioner) should be filed with the Court Branch. In any case in which a request for a Temporary Extension is filed, the Request/Petition must be accompanied by a memo from the Social Worker indicating:

1. The emergency circumstance(s) or incident(s) that necessitates an extension of supervision. In cases in which the incident/circumstances are included in the petition itself, the memo may refer to the petition.
2. In the absence of an emergency situation an explanation of why the Petition was not filed in a timely manner

3. In the absence of an emergency situation an explanation of why an extension is necessary to protect the welfare of the child and/or the immediate safety of the public and what additional services necessitate the continuance of supervision.

"Emergency situations" include circumstances or incident(s) in which there is an unforeseen substantive new behavior or change in circumstances that, in the opinion of the party, significantly alters the case plan and necessitates extended supervision. Examples of "emergency situations" include: new delinquency allegations, new abuse/neglect allegations, a significant change in the living situation of a parent/child/custodian, substantial changes in the level of compliance by a parent/child/custodian with conditions of supervision, etc..

In the event the matter cannot be scheduled with the Judge prior to the expiration of supervision, the Clerk will prepare a Temporary Extension Order for the Judge to sign. If denied, notice of that denial and the petition will be returned to the requesting party. The Clerk will docket the receipt of the request and the approval/denial.

NOTICE TO PUBLIC DEFENDER'S OFFICE

Since the appointment of a public defender for a child/juvenile is "closed" at disposition, if a petition for revision, extension, or change of placement is received by the Branch in which the child/juvenile was represented by a public defender, the Branch must change the attorney designation back to the generic "State Public Defender's Office" and send to the SPD Office. If the revision/extension/change of placement is based on a petition under §938.13(12) in which the juvenile was represented by a GAL and has since turned 10, the SPD Office must receive a copy of the notice of hearing in order to appoint counsel to represent the juvenile as opposed to being represented by the GAL.

JUVENILE COURT
POLICY/PROCEDURE

TERMINATION REPORT

POLICY

Termination reports or memos indicating the intent to allow court supervision to terminate/expire in **delinquency cases** must be submitted to the court and parties by the assigned Social Worker at least 30 days prior to the expiration of supervision under the following circumstances:

- The restitution order has not been satisfied and a balance remains to be paid.
- Juvenile is under a Type II or stayed correctional order.
- Juvenile has been adjudicated delinquent for a sexual offense and is currently under supervision for that offense.
- Juvenile is placed out of home and will not return home until date court order expires. (Note: memo not required if youth is 18 or will be on date court order expires.)
- Juvenile is under supervision and the court order specifically states that it is necessary for the Social Worker to file a report or memo prior to the expiration of supervision.

Termination reports or memos indicating the intent to allow court supervision to terminate/expire in **CHIPS cases** must be submitted to the court and parties by the assigned Social Worker at least 30 days prior to the expiration of supervision under the following circumstances:

- Child is under supervision and the court order specifically states that it is necessary for the Social Worker to file a report or memo prior to the expiration of supervision.
- If the CHIPS dispositional order indicates supervision until the child's 18th birthday or 19th birthday if the required educational criteria are met, AND the child will not meet the criteria for extending supervision to the 19th birthday, then the social worker should send a memo to the court and parties 30 days prior to the child's 18th birthday explaining why supervision will terminate.

The content of the report or memo should include the juvenile/child's name, case number, date that the order is due to expire and any information that would help update the parties as to the status of the juvenile/child.

JUVENILE COURT
POLICY/PROCEDURE

**PAYMENT FOR EXPERT WITNESS, OTHER COURT RELATED SPECIAL
COSTS,
AND SERVICES PROVIDED PURSUANT TO COURT ORDER**

POLICY

The Court will order payment for only those costs for services which are deemed necessary and/or required by statute or for those treatment services deemed necessary for which other sources of payment or reimbursement are not available. In some cases these services may be treatment or counseling services not already funded through the Department of Human Services (e.g. private providers of services vs. programs with whom the Department has a contractual arrangement). In these cases, if critical to the successful implementation of a treatment plan and/or ordered by the Court, the Department, pursuant to §48/938.36 and 48/938.361 the county may be liable for the cost of these services, but consideration of other services and the ability of the client/family to pay for the service should be given before entering any order.

In cases in which an expert witness is needed in Juvenile Court either at a trial or contested dispositional hearing, or for some other unusual expense (e.g. depositions) it is generally the responsibility of the District Attorney, Corporation Counsel, or Public Defender to determine, approve, and pay the expenses. If the court is asked to cover the expense:

1. Prior approval by the Judge is required only after submission of a written request for services, explaining the need and estimated time/expense
2. Reimbursement for services (including out of town mileage) is limited by rates established by the Clerk of Courts and approved by the Judges for services of psychiatrists, psychologists, social workers or other professionals. This rate must be communicated to the party prior to work commencing.
3. If the witness is noticed/subpoenaed to appear for court, the day of the hearing the court shall be notified of the exact time for which the witness has been noticed
4. Deposition costs will be paid at the county rate for court reporters, and requests for payment must include an itemization of the total number of pages. The attorney shall notify the reporter of these requirements.

The Court shall not order the Department to pay for services for services which were provided prior to any Court order for provision of those services (e.g. counseling by a private therapist prior to court order/authorization) without the consent of the Department.

PROCEDURE

In cases in which **the social worker** is recommending a plan that includes the provision of services, the worker should identify who is responsible for payment of the resource or service (see related Policy on Court Reports). The worker should consider the ability of the parent/client to pay for the service, availability of insurance coverage, etc. in making that recommendation. The worker may request that the parent complete financial statements to review prior to making such a recommendation.

In cases in which the request comes from **another party** (e.g. parent, attorney, GAL, SPD, etc.) consideration should be given by the court to the necessity of ordering the Department to pay for the cost of the desired services. Parties anticipating such a request should file a motion with the court (copy to HSD Corporation Counsel's Office, 1202 Northport Drive) at least **five** working days prior to the court's consideration of the motion. This motion may be considered in conjunction with other pending actions scheduled for the child or may be set on as a separate hearing by the court. In either case this will allow the Department to attend and have some input into the motion under consideration.

In all cases, unless otherwise determined by the Court (for therapeutic reasons) or required by statute, the parent(s) will be expected to contribute to the cost of services based on their ability to pay.

RATES OF PAYMENT

Unless otherwise specifically ordered by the Court, payment for services ordered by the Court shall be at rates recommended by the Clerk of Courts with approval of the Judges. Parties providing services to the Court should be made aware of these rates prior to commencing work, and no party shall represent a different rate of payment to a provider unless otherwise approved by the Court.

For services provided and/or paid for by the Department, Department policy provides that reimbursement for unfunded (non-contracted) court-ordered services (most often counseling, therapy, etc.) be made at the current Medical Assistance rates.

EXCEPTIONS/COMMENTS

Since MA rates (or those established by the Clerk of Courts) may be lower than usual and customary rates, some providers may not "accept" the MA rate, and the court may consider whether there is sufficient reason to order payment above/beyond those rates in order to maintain the level and quality of treatment necessary to meet the child/family's needs. In some cases, it is possible to arrange for a different provider without having a negative affect on the treatment. In others, the nature of the therapeutic relationship or the special needs of the child/family may outweigh the financial considerations. In any case, the court **should not** order payment above the established rates without clear indication that such payment is essential to the provision of services to the child/family or the court. Orders exceeding these rates may be appealed by the Department by the filing of a Motion with the Court.

Note: This policy is **not** related to the need for interpreters, language or sign, or other accommodations as may be required by the Americans with Disabilities Act.

JUVENILE COURT
POLICY/PROCEDURE

OUT OF STATE TRAVEL BY CHILDREN IN SUBSTITUTE CARE

POLICY

Juveniles placed in alternate care (foster home, group home, child caring institution, relative's home, etc.) pursuant to an order by the Dane County Juvenile Court and under the supervision of the Department may travel, for 14 days or less, out of the State of Wisconsin within the continental United States when accompanied by appropriate adults responsible for care of the children, provided that the foster parent, group home, CCI, or other placement as been notified by the Department, the Social Worker has determined the circumstances and length of the visit, and the Social Worker does not object to the out of state travel.

PROCEDURE

Persons responsible for the physical care and/or supervision of the child or other party initiating the travel request must obtain permission from the Department Social Worker prior to commencing the travel.

If the request exceeds the 14 day limit, the Social Worker shall write a letter of explanation to the Court requesting approval (including an outline of destination, supervising party, dates of departure/return, etc.), and that approval must be granted by the Court prior to departure.

EXCEPTIONS/COMMENTS

None

JUVENILE COURT
POLICY/PROCEDURE

USE OF SANCTIONS

POLICY

In many cases, the use of the Sanctions process (whichever sanction is chosen) can be an effective “tool” to help support and reinforce a supervision plan for juveniles adjudged delinquent that ensures community protection, reinforces the juvenile’s completion of their obligation to the victim or community, and enhances their involvement in skill-building activities. The use of sanctions will also reinforce the authority of the court by providing a consequence for failure to comply with court orders.

Social workers are encouraged to consider the use of sanctions to reinforce a supervision plan whenever a juvenile is violating the terms of the court order. If the worker determines that the use of sanctions is necessary to maintain the integrity of the court or that it may effectively assist in reinforcing a supervision plan, information should be provided to the assigned District Attorney or a Sanctions Motion should be filed with the assigned Judge as soon as possible. The Juvenile Judges will give high scheduling priority to Sanctions Motions to reinforce the idea that it is important to respond promptly to violations of court orders.

GUIDELINES FOR SANCTIONS

The following are suggested guidelines for the use of the Sanctions process. However, each case will present unique circumstances that must be considered from the point problems arise up through any actual imposition of sanctions:

1. The use of sanctions is not the only method the social worker may use to promote a juvenile’s compliance with the condition of the court order. Depending on the nature of the supervision plan and the non-compliance, a social worker may take other steps to obtain compliance. In many cases, however, the prompt use of sanctions will be necessary to promote community safety, accountability, and compliance with other aspects of the court order.
2. Timeliness is important. While there are situations in which a delay between problems arising and the filing of a sanctions motion or between filing and hearing may be strategically used by the Social Worker to encourage compliance, in most cases information and/or sanctions motions should be forwarded/filed as soon as possible after the problem occurs.
3. The use of Sanctions may only be applied to violations of rules of supervision contained in the original court order. There are often multiple expectations placed on juveniles, all of which may be legitimate, but some prioritizing should occur so that sanctions are utilized for key components of the plan. Social Workers should

consider, however, whether the failure to respond to a minor rule violation will with that particular juvenile serve to encourage other rule violations.

4. In making recommendations for the imposition of sanctions, either in writing as part of the motion/information or verbally at the time of a hearing, the Social Worker and/or DA making the request should provide their rationale for why the recommended sanction is being suggested, which should include an explanation of why other possible sanctions are not seen as being effective.
5. Sanctions should generally be used to help support and reinforce a juvenile's participation in a balanced supervision plan. The use of sanctions is generally not seen as a "stand alone" punishment/consequence in and of itself. Rather, the use of the Sanction process is most useful when an adequately prepared supervision plan is in place and there is reason to believe that the use of sanctions will enhance the likelihood of a juvenile's compliance with the necessary aspects of the plan.

PROCEDURE

I. Filing the Motion

Either the worker or the District Attorney may file a Sanctions Motion. If the circumstances of a particular case demand a very prompt response, generally the worker should file directly with the assigned court. A Sanctions Motion must refer to the provision of the dispositional order that is alleged was violated and include a brief description of the facts constituting the violation.

II. Scheduling the Hearing

A. When the Social Worker files the Sanctions Motion with the assigned court, he/she shall notify the clerk of the degree of urgency of the situation. The clerk will schedule a hearing as soon as possible, but no sooner than 72 hours from filing unless another matter concerning the same juvenile is already scheduled. Clerks shall give high calendar priority to scheduling hearings on Sanctions Motions taking account of the degree of urgency conveyed by the Social Worker. The date assigned by the Clerk will determine who is responsible for notice, as provided below.

B. A Sanctions Motion based upon a new law violation will not be separately scheduled, unless good cause is shown, but instead will be calendared at the time proceedings on the new petition are set.

C. If the Social Worker notifies the Clerk that the matter is urgent and the Clerk is not able to schedule the hearing within 14 calendar days of filing even after giving the matter high calendar priority, the Clerk may schedule the matter to be heard by the Court Commissioner on the first occasion more than 72 hours after filing that the commissioner may hear the matter. The Clerk shall be responsible for notice when a hearing is set before the Commissioner, as provided below.

III. Notice

A. If the hearing on the Sanctions Motion is set before the Judge on a date seven (7) calendar days or longer after filing, the court shall provide notice by mail. If the hearing is set in fewer than seven (7) days, the clerk shall provide the Social Worker, if requested, with the names of all persons entitled to notice; and the Social Worker shall notify all persons entitled to notice personally, by telephone or by fax, and shall provide a copy of the Sanctions Motion to the juvenile and his/her attorney and to the District Attorney.

B. If the hearing on the Sanctions Motion is set before the Commissioner, the Clerk shall obtain the date from the Commissioner and shall cause all notices to be provided in accord with the foregoing time determinations. The Clerk shall also send mail notices for the earliest possible Hearing de novo date on the assigned Judge's calendar for use under the following Commissioner procedure.

IV. Commissioner Procedure

A. The Commissioner is authorized to conduct hearings on Sanctions Motions when the Social Worker believes the matter is urgent and the assigned Judge's Clerk is not able to schedule the hearing on the Judge's calendar in less than 14 calendar days.

B. In the event the Commissioner determines that there has been a violation of the court's order and that a sanction should be imposed, he or she shall complete a Sanctions Order form and sign it below the Judge's signature line. The Commissioner shall also notify the juvenile and his/her attorney that they have the right to a Hearing de novo before the assigned Judge so long as it is requested on a form to be provided by the Commissioner before the conclusion of the hearing. The Commissioner shall cause his/her recommended Order and any request for Hearing de novo, if filed, to be delivered to the assigned Judge; and shall, if the juvenile requests a Hearing de novo, remind him/her of the date for such hearing previously provided by the Court.

C. If no request for a Hearing de novo is made, the recommended Order shall become immediately effective, subject to the Judge's right to rescind the Order by not signing it. If a request for a Hearing de novo is made, the recommended Order shall be stayed until the hearing is held before the Judge.

D. If no request for a Hearing de novo is made, the Judge shall review the recommended Order as soon as possible and shall, if he/she believes its terms to be appropriate, sign it and cause copies to be mailed to the juvenile, the juvenile's attorney, the District Attorney and all others that the Judge deems appropriate.

JUVENILE COURT
POLICY/PROCEDURE

COLLECTION OF BIOLOGICAL SAMPLES FOR DNA DATABANK

POLICY

Pursuant to 938.34(15), the court shall order juveniles adjudicated delinquent on the basis of a violation of §940.225 or 948.02(1) or (2) or 948.025 to provide a biological specimen to be submitted to the state crime laboratory for DNA analysis and inclusion in the DNA Databank. Juveniles adjudicated delinquent on the basis of any violation under Ch. 940, 944, or 948, or §943.01 to 943.15 **may** be ordered by the court to provide a biological specimen.

PROCEDURE

In order to accomplish this process in the most efficient manner, the following procedural steps should occur:

1. If ordered to submit a biological specimen pursuant to a court order under §48.34(15), the court shall direct that the juvenile report to the Juvenile Reception Center to provide the necessary sample. The court may direct the juvenile to do so immediately following the hearing or provide up to 14 days for the juvenile to so report. Reception/Detention Center staff will be available to collect the sample between **8:00 a.m. and 8:00 p.m. Monday through Friday**. Juveniles may not report for collection of the sample at any other times unless authorized by the JRC or Detention Supervisor. (note: if the juveniles is already in secure custody and/or continued in secure custody, the sample will be collected prior to their release).
2. The court branch entering the order should complete a "checklist" order form for the juvenile to bring with them to JRC so JRC can verify the order was entered. If the juvenile is not going to be immediately reporting to JRC, the court should send a copy of the checklist order to JRC. JRC will file the order and have a mechanism in place to track that the juvenile subsequently reports. If, at the end of the time provided by the court the juvenile has not reported for sampling, JRC will send written notice of non-compliance to the District Attorney, with a copy to the juvenile's attorney.
3. Upon reporting to JRC, staff will verify the identity of the juvenile (through some form of identification, verification from a parent, perhaps brought to JRC via Social Worker, etc.) and then proceed to collect the sample (takes about 5 minutes). JRC will maintain a log listing the names, dates, and times of collected samples.
4. JRC will forward the sample to the state crime lab in the pre-packaged, pre-stamped envelopes provided by the crime lab.

Juveniles will not be assessed (as are adults) the \$250 fee to pay for the DNA program.

JUVENILE COURT
POLICY/PROCEDURE

PERMANENCY PLAN REVIEWS

POLICY

Pursuant to §48.38(5) or §938.38(5) a review of the permanency plan for any child placed outside of the home will be conducted at least every 6 months.

Effective January 1997, the permanency plan reviews for children placed out of home will be conducted as follows:

- For **all** children under age 3 **and** for **any child for whom a TPR is considered to be a possible or likely outcome**, the **Judge** will conduct the initial 6 month review and all annual reviews at the time of any concurrent extension. Subsequent 6 month reviews may be conducted by the commissioner if so directed by the Judge.
- For children **ages 3-17** not included above all annual review(s) will be conducted by the **Judge** concurrent with any extension. Intervening 6 month reviews will be conducted by a panel designated by the Department of Human Services.

PROCEDURE

Required notices for all reviews conducted by the Court will be sent by the Court. Requests for Permanency Plan Reviews by the court must be made 60 days prior to the date needed for the review to provide sufficient time for scheduling and noticing of parties. For reviews conducted by the panel designated by the Department, the Department is responsible for sending required notices to parties.

COMMENTS/EXCEPTIONS

The court may, in any case set for review by the panel under the guidelines above, direct that any/all subsequent reviews be conducted by the court rather than the panel.

JUVENILE COURT
POLICY/PROCEDURE

SEX OFFENDER REGISTRATION

POLICY

Pursuant to §938.34(15m) if a juvenile is adjudicated delinquent for a violation of §940.225(1), (2), or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11, or 948.30 or of ss. 940.30 or 940.31 (if victim a minor and child not the victim's parent) the court shall require the juvenile to comply with the reporting requirements under §301.45 unless the court determines, after a hearing on a motion made by the individual, that the individual is not required to comply under §301.45(1m). For other violations of Chapters 940, 944, 948 or of ss. 943.01 to 943.15, the court **may** require the juvenile to comply with the reporting requirements under §301.45 if the court determines that the underlying conduct was sexually motivated in nature and that it would be in the interest of public protection to have the juvenile report.

PROCEDURE

Responsibility for implementation of a procedure in which juveniles report as required is with the Department of Human Services. However, to facilitate the efficient registration of offenders as required by statute, at the time of disposition in the above circumstances, the juvenile should be directed to go (accompanied by his/her social worker) to the Juvenile Reception Center to complete the initial registration requirements. The branch should send a copy of the "checklist" order form with the juvenile and/or worker indicating which/both of the requirements are to be met.

COMMENTS/EXCEPTIONS

This process is similar to the DNA testing requirement(s) in which the juvenile should come directly to Reception Center for purposes of completing the necessary registration forms. However, since portions of the registration require the supervising "agent" to provide certain information to the juvenile, the social worker for the case must also come to JRC and complete their portion of the document. Upon completion of that portion, JRC/Detention staff will assist the juvenile in completing the remaining portions of the form and mailing them to the appropriate parties.

If, for whatever reason, the process is not completed at JRC, JRC will notify the worker to remind them to follow up with completion of registration. If, for some reason, a worker and/or juvenile/parent are not able to come to JRC to complete this, the social worker is fully responsible for completion of the registration within 10 days.

JUVENILE COURT
POLICY/PROCEDURE

IMPOSITION OF SANCTIONS

POLICY

At the time of entering a sanctions order that includes the juvenile serving a period of days in Detention, the Court may stay all or a portion of that order and delegate a decision on the "lifting" of the stayed order to the department providing supervision for the juvenile under the procedures outlined below.

PROCEDURES

At the time of entering a "stayed" order imposing a stay in detention at the discretion of the social worker providing supervision to the juvenile the court should clearly indicate to all parties that that discretion has been granted. Parties may request specific language be added to that order, and the court may include specific language related to the exercise of the discretion by the social worker. The order shall include information as to who may impose the sanctions, for how long the sanctions may be imposed, and a "termination" date for that portion of the sanctions order. (A copy of the order form that should be used for this purpose is attached).

To implement the imposition of sanctions:

1. A copy of that sanctions order must be sent to Juvenile Reception Center by the Court.
2. If a social worker wishes to impose the sanction(s) (that is "lift the stay" of the serving of detention days) he/she should verbally notify Juvenile Reception Center of the decision and arrangements that have been made for the juvenile to report to JRC for intake and holding in Detention. As part of that conversation, JRC will document , the nature of the violation(s) upon which the social worker is basing their decision, and information related to the serving of the sanction (e.g. length of time, start date/time, etc.). If the worker accompanies the juvenile to JRC for the purpose of imposing the sanctions, the worker should complete the required information.
3. A copy of the information obtained above will be forwarded to the Court file, the District Attorney's Office, and the Office of the State Public Defender.

Upon receipt of that information or upon other notice that their client has been placed in Detention, the juvenile's attorney may request that a review of the social worker's decision be conducted by the Judge issuing the sanctions order. The request for that review should be made to the branch, and that hearing should be conducted within three working days of the request. The requesting party is responsible for notifying other parties (District Attorney, social worker, parent(s), JRC) of the hearing time and date.

JUVENILE COURT
POLICY/PROCEDURE

EXPUNGEMENT OF RECORD

POLICY

Pursuant to §938.355(4m) a juvenile who has been adjudged delinquent may, on attaining 17 years of age, petition the court to expunge the court's record of the juvenile's adjudication.

Expungement will not be approved if the juvenile, even though he/she has reached age 17, is currently under Juvenile Court jurisdiction/supervision.

Expungement will only be approved in exceptional circumstances in which the juvenile/adult making the request demonstrates through course of conduct and/or provision of other information that it is in both the best interests of the juvenile and the public that their juvenile record be expunged.

PROCEDURE

The juvenile may request expungement on a form provided by the Court and available from the Juvenile Court Commissioner Clerk or online at www.wicourts.gov. The Petition to Expunge the record should be filed with the current Juvenile Court Judge most recently entering any order on the case. If the most recent juvenile orders were entered by a judge not currently serving as a juvenile judge, the Petition should be filed with the Juvenile Court Commissioner Clerk. In these cases, the Juvenile Court Commissioner will review the request, approve as appropriate, or schedule for a hearing at their discretion.

If approved/denied by a Judge, the branch staff will prepare the order, docket the case, and (if approved) forward the file and order to the designated Clerk of Courts staff member who will be responsible for expunging information from the CCAP system. If approved/denied by the Commissioner, the Juvenile Court Commissioner Clerk will perform the above, including sending the file to the designated Clerk of Courts staff for deletion from the CCAP system.

JUVENILE COURT
POLICY/PROCEDURE

EARLY TERMINATION OF SUPERVISION

POLICY

Any party to an order of supervision entered under §48/938 may request that the court terminate supervision at a point in time earlier than that originally ordered.

PROCEDURE

The party requesting early termination should follow the requirements for a Revision of Dispositional Order (§48.363 or §938.363), including:

- Providing to the Court Branch what new information the Court should consider in making a decision. The information provided should include a statement related to the impact of the proposed change on the victim.
- Requesting that a hearing be scheduled **unless** written waivers of objection to the revision are included from the child, the child's parent/guardian/legal custodian, all parties bound by the dispositional order and the district attorney or corporation counsel.

Additionally, if the revision is to be accomplished by waiver of objection from the parties noted, the requesting party should prepare an order for signature that revises the dispositional order. The signed order and file will be sent to the Juvenile Court Commission Clerk for docketing and distribution of order(s).

If a hearing is held, the court shall notify the above parties at least three days prior to the hearing.

EXCEPTIONS/COMMENTS

Note that the request and related waivers/order must include all relevant petition numbers for which the request is being made.

A request for early termination should not be made if there is outstanding restitution owed to a victim.

JUVENILE COURT
POLICY/PROCEDURE

RECORDS DEFINITIONS

"Confidential record" means a record which may not be disclosed, except by an appropriate court order, through a statutorily authorized exchange which assures the continuing confidentiality of the record, or by a person exercising a statutorily authorized privilege.

"Continuing Confidentiality" means the requirement that parties designated or approved to receive Juvenile Court information may not further disclose that information unless otherwise specifically authorized by Court Order or Policy or by Statute.

"County department" or **"department"** means the Dane County Human Services Department

"Court" means the branches and Commissioners of the circuit court assigned to exercise jurisdiction under Chapter 48 or 938.

"Juvenile Court file" means the numbered file holding all court materials and documents related to a petition for a child under Juvenile Court jurisdiction

"Juvenile Court record" means, unless otherwise specified by policy, all records under the control of the clerk of courts pursuant to §59.39, any record made pursuant to Juvenile Court order (including, but not limited to, examinations under §48.295 or §938.295, Consent Decrees under §48.32 or §938.32, and court reports under §48.33 or §938.33), and records of intake relating to custody intake under §48.20(3) or §938.20(3) and case intake under §48.24 or §938.24.

"Law Enforcement record" means, unless otherwise specified by court or law enforcement agency policy, any record under the direct control of a law enforcement agency

"Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information relating to a juvenile is recorded or preserved, regardless of physical form or characteristics which has been created or is being kept by an authority, but does not include notes prepared for personal use by the creator of the record, information relating to a juvenile within the exclusive jurisdiction of a court which does not exercise jurisdiction under Chapter 48 or 938, or as otherwise excepted by these policies or by policies of a law enforcement agency or the department of human services.

"Reporters of news" means any person employed by or performing services for an organization regularly disseminating news to the public and seeking from the court information controlled by these policies.

"Social service records" unless otherwise defined by the department are those records, portions thereof, and any other information, including verbal communication (but not including juvenile court records) relating to children/juveniles who have been or are receiving services from or have been or are in the care or custody of the county department, i.e., persons who have requested or received, or who are receiving services, whether directly **from the department** or pursuant to contract or agreement **between the department and** another agency. Social service records also include those records defined by §48.981(1)(e), Stats..

JUVENILE COURT
POLICY/PROCEDURE

COUNTY DEPARTMENT AND SERVICE PROVIDER RECORDS

POLICY

Copies of Juvenile Court records and social service records are confidential and shall not be disclosed except as follows:

1. Records may be released or information disclosed as authorized by statute or pursuant to an order of the juvenile court.
2. The Human Services Department may share its records or information, including relevant court records, either verbally or in writing, with Family Court Counseling Services, DOC Probation and Parole, or with an agency or person to whom the department has referred a client for services or with an agency or person under contract, sub-contract, or agreement with the county department, on a need to know basis only, for the purposes of assessing families' needs, preparing recommendations for the court or to enable the county department to coordinate the delivery of services to the client. This does not include evaluations ordered under §48.295 or §938.295 unless otherwise authorized by policy or specific court approval.
3. The Human Services Department may share their records, including relevant court records, with ARB or other review team developed by the department for the purpose of preparing a recommendation for the court or to enable the county department to access and coordinate the delivery of services to the client.
4. The Human Services Department may share its records, including relevant court records, with CASA volunteers, on a need to know basis, for the purposes of assisting the department and/or the court in providing supervision and support to a child/family. This does not include evaluations ordered under §48.295 or §938.295 unless otherwise authorized by policy or specific court approval.
5. The Human Services Department may share its records, including relevant juvenile court records, with another county department of human/social services and the federal Social Security Administration, for the purposes of assessing a client's need for services or providing services to a client/family.

Unless otherwise approved by Court Policy, copies of court records, court-ordered examinations under §48.295 §938.295, and Law Enforcement records of the county department are not social services records but rather retain their original status and are subject to applicable Wisconsin statutes controlling access and disclosure.

Records and information created by an agency or person providing services under contract or sub-contract to the county department or pursuant to court order which relate to a juvenile or family shall not be disclosed unless otherwise approved by Court Policy, including 6 below.

6. Records and information received or created by a service provider, including but not limited to psychiatrists, psychologists and medical personnel, relating to an individual receiving services pursuant to court order or county department contract, sub-contract, or agreement may be shared with employees or other agents of the service provider agency on a need to know basis and shall be provided to the court or county department on request unless otherwise ordered by the court.

CONTINUING CONFIDENTIALITY

Any person or agency receiving a record or information under this policy shall be informed that further disclosure of the record or information without court authorization or otherwise permitted by statute is prohibited under penalty of contempt.

EXCEPTIONS/COMMENTS

Administrative records (e.g. agency memoranda and personnel policies) which do not contain individual client information are not covered by this policy.

Records or information in service provider agency files which are **not related to an individual** receiving services pursuant to a contract, sub-contract, agreement, or court order are not covered by this policy.

Refer to the Policy on Records Relating to Examinations under §48.295/938.295 for specifics related to the release/sharing of evaluation records.

Children Come First Coordinators/Supervisors may share its records, including relevant court records, under the same provisions as the Human Services Department for the purposes of coordinating development and implementation of services provided it is done with the documented consent of the county social worker and with the declaration required under “Continuing Confidentiality” above.

JUVENILE COURT
POLICY/PROCEDURE

RECORDS RELATED TO EXAMINATIONS UNDER §48.295 or §938.295

POLICY

Records relating to an examination under §48.295 or §938.295 are juvenile court records subject to the provisions of §48.396(2) or §938.396(2) and are not subject to §51.30 nor 42 C.F.R Part 2. An examination under this section is neither a treatment service within the meaning of Chapter 51 nor a drug or alcohol abuse prevention functions as defined by federal law.

An examination ordered under this section which is made part of the court record is not subject to privilege, i.e. the examined party is without authority to allow or prohibit disclosure of the examination record, for the purpose of communicating the examination record to the court, district attorney, and counsel for or the child or other party, in preparing the court report under §48.33 or §938.33 and, subject to the decisions of the court, for use in proceedings related to the juvenile court petition.

Copies of and references to examination records which are contained in the juvenile's county department file continue to be a juvenile court record and are not subject to the exchange provision of §48.78 or §938.78. All such copies and references shall be clearly identified as a confidential juvenile as a confidential juvenile court record which may not be disclosed except as authorized by Court Policy or Order.

Unless otherwise prohibited by the court or by other policies, the county department may share copies of evaluation records with day treatment programs, group homes, child caring institutions, Family Court Counseling staff, therapists, court-ordered evaluators/therapists, a Court Appointed Special Advocate (CASA) volunteer, and CCF Case Coordinators/Supervisors for the purpose of assisting the county agency in the development of a treatment plan and in implementing the court's dispositional order. CCF Case Coordinators/Supervisors may also release copies of court ordered evaluations to the above with the documented consent of the assigned county social worker for the purpose of facilitating court ordered placement or implementing supervision plans. Evaluators may provide a copy of the evaluation to third-party payers for purposes of seeking reimbursement as may be required by agreement with the Department. Further release of the evaluations by the third party is prohibited, and information indicating this prohibition must be included with the evaluation. Under no circumstances may any of the persons authorized to receive copies or the assigned evaluator further release the assessment to any other persons, including parents, children, attorneys, and other treatment providers without approval of Court Policy or Order of the assigned juvenile judge.

The court shall cause copies to be transmitted to the district attorney or corporation counsel, to counsel or guardian ad litem for the child, counsel for the

parent(s), and to the court-appointed special advocate for the child. If applicable, the court shall also cause copies to be transmitted to counsel or guardian ad litem for the unborn child and the unborn child's expectant mother. At no time, without specific court approval, shall a copy of the evaluation be given to the parent(s), child, or other persons by the parties above to be read, retained, or removed from the presence of the court. For parents not represented by counsel, the court, if requested, may order release of the report. It is preferable, however, in all cases that the evaluator or worker interpret the results of evaluation to the parties.

All copies of evaluation records covered under this section and/or disclosed under this section shall be stamped "**Further disclosure of this record or information is prohibited under penalty of contempt**".

PROCEDURE

Unless otherwise provided by Policy or Statute, records of examinations/evaluations ordered by the juvenile court pursuant to §48.295 or §938.295 may only be inspected or copied upon written order/authorization of the court. The order shall contain the name(s) of persons and agencies who may have access to the records. Further disclosure to other persons or agencies is prohibited under penalty of contempt unless the judge amends the original order to specifically allow such further disclosure.

Any person requesting an opportunity to inspect or (only for school personnel) receive a copy of an examination/evaluation report ordered by the juvenile court must file the following written documents with the clerk of the assigned juvenile court branch:

1. A statement explaining the purpose for examining the record and the name, address and professional affiliation of the individual requesting access to the record.
2. An informed consent signed by the child's parent or guardian, and by the child if the child is 14 years of age or older. The consent must identify the requester by name, address and professional affiliation, describe the purpose for the disclosure, include a notice to the parent/guardian/child of their right to withhold their consent and include a time limit within which the requestor may have access to the record.

The assigned branch will forward a copy of the request and the informed consent to the attorney or guardian ad litem for the child and provide 10-days within which counsel may object to the disclosure. If no objection is received within the ten-day notice period and/or if the court determines that disclosure is appropriate, the court may order the inspection or copy of the requested record or portions thereof. The court's order shall include any necessary and appropriate restrictions on the further disclosure of information by the requester. Any record or information copied shall be stamped "**Except by court order, dispersal of this document is prohibited under penalty of contempt**".

JUVENILE COURT
POLICY/PROCEDURE

ACCESS TO/RELEASE OF COURT FILES

POLICY

Access to and/or the release of Court files may not be granted unless specifically authorized by Court Policy/Order or Statute as follows:

***Review** as defined in this and any other related records policy means that the party may read/see information in the record but may not remove the record from the court office and may not make copies of documents unless otherwise ordered by the court or specifically permitted in these policies.

1. **Review** of the Court file without Court Order may be granted to:

- personnel of the Court, including persons providing services to the Court, Family Court Commissioner, Family Court Counseling Service, IV-D, Family Support, and CASA Volunteers
- the State Department of Health and Social Services staff providing services to the juvenile pursuant to a court order,
- State Probation Officers (adult) assigned to investigate or provide supervision to the youth, and -the attorney representing the youth in adult court with the consent of the youth.
- Staff of the State Department of Corrections Division of Youth Services Juvenile Corrective Sanctions program and Juvenile Probation agents. Staff in this category may make copies of the information they may require for purposes of providing services to the juvenile.
- the department of corrections, for purposes of providing the department with a juvenile's offense history **if** the child has been adjudicated delinquent for a sexually violent offense as defined in §980.01(6).
- the victim-witness coordinator for the purpose of enforcing the rights of or providing services to individuals related to the case.

2. Counselors of the Family Court Counseling Office, in addition to reviewing records as noted above, may make copies of any court or Human Service records to which they will otherwise be entitled to receive from the department, including evaluations ordered under §48/938.295, without further specific court authorization. Information received shall be segregated in confidential envelopes within the Family Court Counseling file and would not be used in any family proceeding nor disclosed to any other party or their attorney without specific prior approval of the assigned juvenile judge.

3. A person 17 years of age or older must receive permission from the court to **review** his/her file as outlined below (#8). Copies of orders previously provided the person or his or her parents which are now lost may be duplicated and provided to the requestor without additional permission of the Court.
4. Law Enforcement agencies may **review** files pursuant to a request authorized by statute (§938.396(2)(c)) for the investigation of the juvenile's possible involvement in gang related activity.
5. The Youth Restitution Program may verbally disclose certain information about the juvenile's offense and record to potential employer(s) as may be reasonably necessary to protect fellow employees and the public. Such information shall be restricted to that which is necessary to permit the on-the-job supervision to be structured to meet the needs of the child and to protect the safety and welfare of the employer, fellow employees, and the public, and may include the nature of the offense for which the juvenile was found delinquent.
6. Municipal Courts may **review** Juvenile Court files for the purpose of verifying the current status of the child in Juvenile Court related to the following: the nature of prior petitions, the current status of the child (e.g. under supervision, Delinquent, CHIPS, etc.), or for verifying a juvenile's participation in AODA or other treatment programs as may be relevant to the Municipal Court in making a disposition in a pending Municipal Court action. Material is not to be removed from the file or copied without the permission of the Judge assigned to the case, and consistent with requirements for continuing confidentiality below further disclosure of the record or information is prohibited.
7. Pursuant to §938.396(2m), the Court shall disclose to the requestor, the name and age of a child who has been adjudicated delinquent for committing a violation of §940.01 (First-degree intentional homicide), 940.02 (First degree reckless homicide), 940.03 (Felony Murder), 940.05 (Second degree intentional homicide), 940.06 (Second-degree reckless homicide), 940.225(1) or (2) (First or Second Degree Sexual Assault), or 943.32(2) (Armed Robbery), or 939.62(2m)(a)1,2 or 3, the nature of the violation, and the disposition imposed as a result of that violation. The requestor may further disclose that information to anyone.
8. Pursuant to §938.396(2)(d) upon request of a court of criminal jurisdiction or a District Attorney they may **review** court records for the purpose of investigating whether a person has possessed a firearm in violation of §941.29(2) relating to any child who has been adjudicated delinquent for an act that would be a felony if committed by an adult.
9. Requests for the inspection of records other than those indicated above must be approved by the Court pursuant to a request made on the form provided by the Court and verification by the Court that the person making the request is the person authorized by statute to inspect such information.

REQUIREMENT FOR CONTINUING CONFIDENTIALITY

Unless otherwise specifically authorized by statute (e.g. §938.396(2m)(a) or (b), §938.396(2)(f) or Court Policy/Order, any person or agency receiving a record or information under Court Policy shall be informed that further disclosure of the record or information without Court authorization is prohibited under penalty of contempt.

PROCEDURE

Any requests for information or review as provided for in this policy shall be made in writing to the Branch assigned on a form provided by the court. If the request is made in person, the court staff will verify the identity of the individual making the request and so note that on the form. If the request is mailed to the court, the request must be notarized as assurance that the person making the request is that person. If court approval is required, the judge assigned will review the request within 72 hours and approve/deny the request and notify the requester of approval/denial and the manner in which the records may be inspected/reviewed. In these cases, the judge may, in his/her discretion, limit disclosure/review to the following documents: petitions, motions, court orders, and hearing minutes.

In the event the request is made by the parent, guardian, or legal custodian of a juvenile or by the juvenile age 14 or over (§938/48.396(2)(ag) the judge may refuse access to the record(s) if there is concern that inspection of the records by any of those parties would result in imminent danger to anyone. In this case, the judge shall set a hearing within 21 days at which time the court may determine whether or not to release the records for inspection. The court shall provide due notice of the hearing to the party making the request and any other party as may be deemed to be appropriate by the court.

In all cases, the request and approval must be documented in the court file, including a notation of when the file was reviewed by the requesting party.

EXCEPTIONS/COMMENTS

If copies of records are requested and provided, pursuant to §814.61(1) a charge per page is required. In the event the requestor does not provide a case number if required to conduct the search, a search fee is authorized by §814.61(11) and as determined by the Clerk of Courts.

JUVENILE COURT
POLICY/PROCEDURE

DISTRIBUTION OF/ACCESS TO COURT ORDERS

POLICY

Copies of Court Orders will be sent by the Court in all cases to:

1. The Parent(s) of the child/children under jurisdiction
2. All attorneys representing a party in the case
3. Children 10 years of age or older
4. The Social Worker assigned to the case for assessment or supervision
5. Persons/Agencies providing physical supervision of a child in placement (i.e. foster parent, group home, residential treatment center)
6. The Youth Restitution Program for any juvenile ordered to complete restitution or community service
7. Any other person/agency authorized by the Court as deemed relevant as necessary or of assistance in providing the supervision/treatment for the child/family

Objections may be made by any party to the distribution of a court order to any party, person, or agency, and the court may bar distribution of the order upon making a good cause finding that distribution of the order would not be in the best interests of the juvenile.

In addition, copies of court dispositional and physical custody orders for children adjudged or alleged **delinquent** will be provided to law enforcement agencies upon request for the purpose of assisting the law enforcement agency and the court in monitoring and/or supervising the child's compliance with conditions of the order. Requests for copies of orders for children alleged/adjudged CHIPS must be directed to and approved by the Judge or Commissioner entering the order prior to distribution to law enforcement.

The Department may provide a copy of a Court Order to an agency or person under contract, subcontract, or agreement with the department, the State Department of Health and Human Services and/or Division of Corrections, and other County Human Service Departments for the purpose of enabling the Department to coordinate the delivery of services to the client. Children Come First Coordinators/Supervisors may provide a copy of court orders to agencies or individuals, with the documented consent of the county social

worker, as may be necessary to carry out the order of the court provided that parties receiving the information are warned that further release is not permitted.

PROCEDURE

Related to requests by Law Enforcement for copies of Court/Physical Custody Orders:

1. Approval applies only to specific case requests from law enforcement personnel who have an interest in monitoring the child's compliance with conditions of the order.
2. The Court clerk will note in the file the request and provision of orders.
3. The copy of the order will be stamped relative to requirements for continuing confidentiality.
4. For Physical Custody orders, JRC will review conditions of the order and may provide them at their discretion (verbally) for the purpose of assisting in monitoring compliance
5. Conditions related to contact with other individuals at school and/or presence on school property may be shared by law enforcement with the appropriate school personnel.

JUVENILE COURT
POLICY/PROCEDURE

ACCESS TO RECORDS BY MILITARY RECRUITERS

POLICY

All requests for release of juvenile records as requested by military recruiters will be answered as follows:

NO JUVENILE RECORDS AVAILABLE

unless otherwise permitted by statute or court policy.

JUVENILE COURT
POLICY/PROCEDURE

JOB CORPS ACCESS TO JUVENILE COURT FILES

POLICY

Authorized staff of the Job Corps program may review (read, not copy) Juvenile Court Records for the purpose of completing necessary background checks on juveniles/young adults enrolling in the Job Corps Program. Review of the record is limited to staff designated by the Job Corps placement agency.

Approval for record access may be given either by approval of the Juvenile Judge who has jurisdiction over the juvenile or pursuant to policies related to access to court records by third parties (Refer to Policy III-D).

PROCEDURE

The following steps should be taken related to this access:

1. The agency administering the Job Corps Program placement will secure the signature of the juvenile/parent on a Request for Release of Information form or access form approved by the Clerk of Courts.
2. That form should be delivered to the Juvenile Court Commissioner Clerk. Court staff will determine if there is a juvenile file and if so, what judge is assigned. If there is not a Juvenile Court record, the review is concluded. If there is a file, staff will get approval for review from either the Judge assigned to the juvenile or the Commissioner.
3. If the file is available, staff from the Job Corps agency may review the contents of the file and complete the **Statement from Court or Other Agency** form as required. No contents of the file may be removed from the Records Center or copied. If the file is not available (e.g. stored elsewhere), arrangements should be made between court and agency staff to retrieve the file and set a time to review it.

EXCEPTIONS/COMMENTS

Any exceptions to this, either in terms of process or information released, must be approved by the Court.

JUVENILE COURT
POLICY/PROCEDURE

**RELEASE OF INFORMATION BY MUNICIPAL COURT(S)
RELATED TO TRUANCY AND MUNICIPAL COURT ACTION(S)**

POLICY

The Municipal Court of any jurisdiction within Dane County may confidentially exchange information, which is otherwise confidential as provided under Chapter 48 or 938 of the Wisconsin Statutes, to wit: the Notice of Disposition for each person found habitually truant under Municipal Ordinance and ordered to perform community service with any provider of such services as may be contracted with by the Municipality relative to any juvenile over the age of 15 years and six months who is under the concurrent jurisdiction of the Dane County Juvenile Court and the Municipal Court so long as the exchange is confidential and not otherwise divulged to any other agency or person(s) not enumerated in this policy.

The Municipal Court Judge of any jurisdiction within Dane County may, at his/her discretion and without further court order, release confidential municipal juvenile records to the parents or legal guardians of such juvenile, provided such information is not released unless the parent or guardian appears in person at the court offices and provides appropriate proof of parental status. However, Municipal Court records of alcohol, drug or mental health assessments, screenings, treatment and similar documents designated as confidential by statute may not be released pursuant to this rule.

The Municipal Court of any jurisdiction within Dane County may release confidential municipal juvenile records to the media or may allow the attendance of the media at confidential municipal juvenile proceedings pursuant to the same rules as adopted in Juvenile Circuit Court, if any, or pursuant to their lawful discretion, if there are no applicable rules, without further circuit court order.

PROCEDURE

The Municipal Court shall notify the Chief Judge of Juvenile Court of any such contractual arrangement with a provider of services and of the intent to disclose information as indicated above. Providers are to be notified of their obligation(s) as to continuing confidentiality of this information but may release to potential employers/job sites information as may be necessary to protect the safety of other workers at the site.

JUVENILE COURT
POLICY/PROCEDURE

ACCESS TO COURT RECORDS BY REPORTERS OF NEWS

POLICY

Reporters of news shall be permitted to inspect copies of Juvenile Court Delinquency Records only if permitted by statute (§938.396(2g)(k) & (l)) or as noted below.

Inspection of court records pursuant to statute is limited, unless otherwise authorized by the Judge assigned to the case, to pending or prior delinquency petitions, other petitions related to pending or prior delinquency actions (e.g. revision/extension/change of placement), court orders, notices, and motions related to prior or pending delinquency petitions.

In all of the above, the reporter may further disclose the information only if permitted by statute.

PROCEDURE

For all of the above the Clerk of Courts will establish procedures and criteria for authorization and may limit or otherwise direct access in a manner necessary to the maintenance and security of the records. Any further exceptions must be approved by the Court.

JUVENILE COURT
POLICY/PROCEDURE

ATTORNEYS SIGNING OUT OF JUVENILE RECORDS

POLICY

Consistent with Circuit Court Rule 113, attorneys may sign out a Juvenile Court file only for cause shown and only upon receipt of a specific court order from the assigned judge which grants authorization to do so.

Under no circumstances shall original records be kept longer than 10 days, and a written receipt/form shall be obtained for each file removed from the office.

PROCEDURE

Documents in files may only be provided to the attorney for the child, parent, District Attorney's Office, Corporation Counsel, or GAL or their designee (e.g. law clerk, intern, etc.) and only if they are eligible to receive them.

If the assigned attorney wishes to request they be allowed to remove the file from the building, he/she must complete the File Request form and obtain judicial approval prior to being given the file. The clerk will maintain the File Request form in a specific location (so as to be able to "track" those that might be signed out) and upon return of the file note that on the Request form and place the Form in the file as a permanent record of to whom and when the file was signed out. If the file is not returned by the time designated in the Request, the clerk will contact the attorney to return the file.

In all cases, the file must be returned to the clerk not less than 48 hours prior to any scheduled court hearing, upon request of the clerk, or no later than 10 days, whichever comes first.

JUVENILE COURT
POLICY/PROCEDURE

**EXCHANGE OF INFORMATION BETWEEN
THE COUNTY DEPARTMENT AND SCHOOLS**

I. DELINQUENTS AND JUVENILES IN NEED OF PROTECTION OR SERVICES

POLICY

Information from the Department of Human Services to the School District:

Pursuant to §938.78(2)(a) & (b) and subject to any Memorandum of Understanding entered into between the Department and a school district, the County Department is permitted to **confidentially** disclose the contents of any record kept or information received about an individual in its care or legal custody for the purpose of coordinating services, conducting investigations, or taking other appropriate actions as may be necessary for either the department or the district to perform their duties.

"In their care or legal custody" is defined to include any individual/child in which the department is involved in conducting an intake assessment, providing services pursuant to a court order or on a voluntary basis, or is defined by the department to be an "open" case.

Information from the School District to the Department of Human Services

Whenever a school official makes a referral to Intake pursuant to §938.24 alleging that the named juvenile is habitually truant from school and in need of protection or services which can be ordered by the court, the official shall provide all the information required by §118.16(5). This disclosure of both progress and behavioral information is lawful because the law authorizing this disclosure, §118.125(2)(g) was in effect prior to November 19, 1974, and therefore is exempt from federal law. The Juvenile Court Judge is the "public official" within the meaning of this statute and is authorized to receive such information through the intake unit.

With respect to all other referrals, intake inquiries and preparation of dispositional reports, pursuant to §938.78(2)(b)2 and subject to any Memorandum of Understanding entered into between the School District and the Department, a school district in which the individual is enrolled is authorized/ordered to **confidentially** disclose to the County department any information contained in the district pupil records as may be necessary for the agency to provide care and treatment for the individual. The department may use the pupil records only for the purpose of providing care and treatment and the district may make the records available only to employees of the department who are providing treatment or care for the individual. Only that information necessary to provide safe and reasonable treatment, supervision, or planning for the individual may be further shared (verbally) by the

department with other individuals providing direct care, supervision, or treatment pursuant to a contractual agreement or memorandum of understanding with the department.

The authorization contained in this policy has the effect of a Court Order as may be required under §938.78(2)(a) or (b)2.

CONTINUING CONFIDENTIALITY

Any record or information exchanged under this policy or disclosed by court order is subject to continuing confidentiality requirements unless otherwise permitted by statute or court policy or Court Order.

II. CHILDREN IN NEED OF PROTECTION OR SERVICES (CHIPS)

POLICY

The County Department is permitted to disclose the following information to the school attended by the child:

- Whether the case is open for social services
- Whether the case is currently assigned to a social worker, and if so who
- What is the current status of Juvenile Court jurisdiction and or at what stage potential jurisdiction is in (e.g. pending investigation, court pending, etc.)
- Whether there is evaluation information in the possession of the department that would enable the school to carry out their educational responsibility (e.g. intellectual assessment, social/emotional status, academic achievement, etc.). If yes, whether there is a current court order authorizing release of that information, and if not whether the school is requesting that the department submit such a request to the court.
- Information on referrals to voluntary services in child welfare investigations that did not result in the filing of a Juvenile Court petition.
- **May verbally disclose** information from court records which are contained in department files, except for clinical (psychiatric/psychological) and AODA evaluations, for the **limited** purpose of facilitating joint planning for educational needs. Disclosure of Court ordered clinical evaluation records or information requires a court order.
- Information regarding day care services when travel plans are in question.

Whenever a school official makes a referral to Intake pursuant to §48.24 alleging that the named juvenile is habitually truant from school and in need of protection or services which can be ordered by the court, the official shall provide all the information required by §118.16(5). This disclosure of both progress and behavioral information is lawful because the law authorizing this disclosure, §118.125(2)(g) was in effect prior to November 19, 1974, and therefore is exempt from federal law. The Juvenile Court Judge is the "public

official" within the meaning of this statute and is authorized to receive such information through the intake unit.

With respect to all other referrals, intake inquiries and preparation of dispositional reports, county department staff should receive the following information unless parental objections has been registered with the school:

- Whether or not the child is enrolled, and if so where.
- Whether the child is in regular attendance at the registered school
- The name of the school contact person
- Further information may be obtained by parental consent or specific court order

CONTINUING CONFIDENTIALITY

Any record or information exchanged under this policy or disclosed by court order is subject to continuing confidentiality requirements.

JUVENILE COURT
POLICY/PROCEDURE

ACCESS TO COURT RECORDS BY OTHERS

POLICY

Pursuant to §938.396(2m)(a) & (b) the court shall open for inspection by the requester the pending or prior delinquency court records related to a juvenile who:

1. Has been alleged to be delinquent for committing a violation specified in
 - §939.62(2m)(a)1,2, or 3
 - §948.30(1)
 - §939.31

or

2. Has been alleged to be delinquent for a committing a violation that would be a felony if committed by an adult and has been previously been adjudicated delinquent and that previous adjudication remains of record and unreversed.

Inspection is limited, unless otherwise authorized by the Judge assigned to the case, to review of pending or prior **delinquency** petitions, other petitions related to a delinquency matter (i.e. revision/extension/change of placement petitions), and court orders, hearing minutes, notices, and other motions related to pending or prior **delinquency** petitions.

PROCEDURE

The Clerk of Courts may establish a procedure related to the manner or form in which a request for inspection must be made and the manner in which records may be reviewed, including such limitations as may be necessary to ensure the security and accurate maintenance of records and provide for timely inspection within the limitations of staff time necessary to prepare the information for review and monitor the inspection.

Under no circumstances, unless otherwise authorized by the Court by order or policy, may the requester make a copy of the information provided for review or otherwise remove the information from the area designated by the Clerk of Courts for review.

The information obtained by the requester under this provision may be further disclosed to anyone.

JUVENILE COURT
POLICY/PROCEDURE

ADOPTION SEARCH

POLICY

The Juvenile Court will maintain a procedure for processing requests for an Adoption Search in accordance with any applicable Statute or State of Wisconsin Administrative rules.

PROCEDURE

To accomplish this process:

1. The agency responsible for working with the biological mother and father will bring to the hearing two completed copies of the "model Court Report for Centralized Birth Record"
2. For a step-parent TPR/Adoption, the attorney or parent filing the petition will be responsible for providing the court with the completed forms.
3. The court will file one copy in the court record and sent to Adoption Search the other copy.
4. The agency or attorney will attempt to have completed the medical and genetic information, including a report of any medical examination the parents had within one year before the date of the petition, and a report describing the child's prenatal care and medical condition at birth. The affidavit may also be completed immediately following the TPR hearings. It will be the responsibility of the agency or attorney to send directly to Adoption Search any of these forms not complete by the hearing as soon as possible.
5. It is the recommendation of the Dane County Juvenile Court that the State Department refer all searches to the original agency involved in the TPR and/or adoption whenever possible, and that the State Department develop the memorandums of understanding necessary to accomplish this goal.

EXCEPTIONS/COMMENTS

None

JUVENILE COURT
POLICY/PROCEDURE

INDEPENDENT TPR/ADOPTION PROCEEDINGS

POLICY

In a non-relative independent adoption, the Judge shall appoint a Guardian Ad Litem for the child and a GAL for a minor parent. The prospective parents shall pay all GAL fees at the attorney's usual rate and may be required to make a deposit for those fees in advance.

Judges **will not** go to the hospital to conduct a hearing for an independent adoption.

No adoption will be granted in which an attorney has acted as an intermediary. If an attorney represents or ever represented any party in an independent adoption and has any financial or business arrangement, either formal or informal, with the agency conducting the placement or the agency counseling the biological parent(s) this must be disclosed to his or her client and to the court.

The study presented to the court for approval of an adoptive placement shall include:

1. A full description of the manner in which the biological parent(s) and the proposed adoptive parents located each other, who was involved in facilitating that meeting, and what contacts they have had prior to the placement hearing.
2. A full description of all financial exchanges between the biological parent(s) and the proposed adoptive parents, including any in-kind services, expenses paid, reimbursements, promises to provide anything of value in the future, and exchanges of anything of value.
3. A full description of the services received by the biological parent(s).
4. A report of any criminal record of the proposed adoptive parents discovered through a check of law enforcement and criminal court records for the areas in which these proposed adoptive parents resided.

PROCEDURE

To accomplish this process:

1. The attorney shall file with the Juvenile Court Commissioner Clerk the petition for approval of placement signed by the potential adoptive parents and the natural parent(s). If either natural parent(s) is a minor, the process shall start with a petition for appointment of a GAL for that parent.
2. Upon receipt of a proper petition, the Juvenile Court clerk(s) will assign the case to a Judge and send the file/case to the Branch for scheduling.

JUVENILE COURT
POLICY/PROCEDURE

PRIVATE AGENCY TPR/ADOPTIONS FEES

POLICY

Fees for the GAL in a private agency TPR/Adoption will be paid by the agency involved. Waiver of this requirement may be granted upon a showing that the child has special needs, if the proposed adoptive parents are receiving reduced cost services from the agency, or if an immediate adoption is not available.

PROCEDURE

The agency shall pay the appointed GAL directly with copies of the bill sent to the court. Any costs over \$500 are to be approved by the court prior to payment. The agency may have up to 10 days to object to GAL fees.

JUVENILE COURT
POLICY/PROCEDURE

STEP PARENT ADOPTION(S)

POLICY

A Guardian Ad Litem must be appointed by the time of the TPR, and fees will be paid by the stepparent unless waived by the Court. The GAL will bill at a rate established by the Clerk of Courts with approval of the Court and will bill the party directly with a copy to the court. Parties have up to 10 days after billing to object to the GAL fees requested.

PROCEDURE

In cases involving **VOLUNTARY CONSENT:**

1. Natural parent(s) may sign a consent to the Termination of Parental Rights before a Judge of any Court of Record. Parties filing the voluntary TPR petitions should be directed to the Probate Court. The Commissioner will schedule the consent hearing on a date designated by the Court, before the Juvenile Judge of the next week prior to, or after the adoptions now being scheduled on the designated mornings. Any legal questions or requests for copies of forms may be directed to the Probate Commissioner.
2. Once the consent has been executed by the parent(s) the paperwork is to be returned back to Probate court to process the petition.

In cases involving an **INVOLUNTARY TPR:**

1. An attorney is advisable but not required to start an involuntary TPR for a stepparent adoption. Involuntary would include, but may not be limited to, a missing father/mother, an adjudication or natural (by marriage) father/mother not agreeing to a TPR, or non-adjudicated alleged father or fathers.
2. The attorney would file a Petition for Termination of Parental Rights in Juvenile Court with the Juvenile Court Commissioner Clerk, and the case will be assigned to a Judge and set for hearing, that hearing to occur within 30 days of filing.
3. After the Termination of Parental rights, the attorney may file a Petition for Adoption with a certified copy of the TPR of father/mother with the Commissioner.

JUVENILE COURT
POLICY/PROCEDURE

NOTICE PROVISIONS REGARDING TERMINATION OF PARENTAL RIGHTS

POLICY/PROCEDURE

At the time a Juvenile Judge enters an order to terminate the parental rights of one or both parent(s), the judge shall provide the parent(s) present in the courtroom with a copy of §48.432 and §48.433 (access to medical and identifying information about parents) as well as a copy of the Wisconsin Department of Health and Social Services Regulations pertaining to these provisions. The Judge shall obtain a signed receipt from each parent indicating that these documents have been provided. Any parent(s) not present shall be sent copies of these documents to his/her last known address together with the Order to Terminate Parental Rights.

JUVENILE COURT
POLICY/PROCEDURE

**RECUSAL WHEN THE COURT
ORDERS A TPR PETITION TO BE FILED**

POLICY

In the event that the Court orders that a TPR petition be filed, that Judge must recuse himself/herself from the case, and the case will be reassigned to another Juvenile Judge.

JUVENILE COURT
POLICY/PROCEDURE

**RUNAWAYS FROM OUT OF COUNTY
INTAKE**

POLICY

A youth placed out of Dane County by the Court in residential treatment, group home, foster care, or other authorized placement may be considered a runaway from another county and held in secure custody pending return to their placement if the following criteria have been met:

1. The child has run away from the placement or fails to return after a "home visit"
2. The child has been alleged or adjudged to be delinquent
3. Probably cause exists to believe the child would run away from non-secure custody pending his or her return

Pursuant to §938.208 a child may be held in secure custody under this section for no more than 24 hours unless an extension of 24 hours is ordered by the **judge** for good cause shown. Only one extension may be ordered by the judge.

JUVENILE COURT
POLICY/PROCEDURE

JUVENILE DETENTION POPULATION LIMIT(S)

POLICY

The maximum limit of juveniles who are housed in the Juvenile Detention Center shall not exceed twenty-four (24), except in the event of an emergency, the number shall not exceed twenty-four (24) for longer than seventy-two hours.

The Juvenile Court Administrator is authorized to contract with and place juveniles with other counties having suitable secured juvenile facilities for placement of Dane County juveniles who are in secure custody and affected by this policy.

Juvenile Reception Center will develop and maintain procedures related to this policy, such procedures subject to the approval of the Presiding Juvenile Judge.

PROCEDURE

The seventy-two hour time period starts at the time a 25th juvenile is placed in Detention and stops at such time as the population again reaches 24 or less.

The Juvenile Court Administrator will notify the Presiding Juvenile Judge and the other Juvenile Court Judges if exceptions are necessary to this policy.

JUVENILE COURT
POLICY/PROCEDURE

**JUVENILE TRAFFIC SENTENCES
SERVED IN DETENTION**

POLICY

Unless otherwise ordered by the Court, juveniles committed to serve time in Detention as the result of a traffic offense may receive credit for time served and earn "good time" in the manner outlined in the Procedure below.

PROCEDURE

Similar to policies and practices of the Dane County Jail, juveniles committed to serve time in Detention as the result of a traffic offense will have their time counted in the following manner:

1. They receive credit for a full day served for any day on which they serve at least six hours. Therefore, to receive credit for the day on which they are admitted, they must check in before 6:00 p.m.
2. They will receive credit for a full day served on their date of release. All releases will take place between 6:00-9:00 a.m. depending on what release arrangements are made through JRC.
3. Juveniles may receive "good time" on a 1/4 time basis, so the juvenile may reduce their sentence by a day for each 4 days served. Serving two days may result in the earning of a "half-day" credit in which case the juvenile may be released between 6-9 p.m.. The earning of "good time" by a juvenile assumes that they are in general compliance with behavioral expectations in Detention. A recommendation that the juvenile not receive good time credit may be made by the Detention Supervisor to the Supervisor of Reception Center.

Also, similar to prior Jail practice, juveniles who have verified employment or school attendance requirements may be released for the purpose of work or school as follows:

1. Authorization for "Huber"-type privileges must be included in the order of the court before any release is permitted. In the absence of such an order and in the event of a determination by program staff that the juvenile has verified school/work

- requirements, JRC staff may request that the order be amended to provide for that release after notifying the DA of the intent to do so.
2. Initial verification and subsequent monitoring of employment or school attendance will be done by Detention staff, with information provided to JRC.
 3. In the event of a violation of the release conditions, the Detention staff member(s) and JRC Counselor on duty at the time **shall** consider suspension of the release privilege and the JRC Counselor may suspend the release privilege pending review by the JRC Supervisor or designee. Suspension of release privileges may also occur as the result of any significant behavioral problems in Detention. All violations shall be documented by an Incident Report and include a Recommended Action and referred to the JRC Supervisor for review and action. Final revocation of the privilege may be done by the Supervisor or designee. Any appeal of that decision must be directed to the Court/Judge issuing the Order for Commitment.

EXCEPTIONS/COMMENTS

Note that the calculation of time served related to traffic offenses is not the same as that used for the time served for Sanctions.

Any exceptions or modifications of the above must be approved by the JRC Supervisor, Juvenile Court Administrator, or the Court issuing the order.

Note that commitment to Detention may be made by a Circuit Court Judge or Commissioner for a variety of traffic-related offenses, in which case the Court will issue an Order for Commitment and/or an Arrest Warrant which directs law enforcement to either collect the fine or bring the person to the Dane County Jail ("old" language that is still on the warrant) for a specified number of days.

Commitment to Detention by a Municipal Court may be made only in very limited circumstances (See **Use of Detention by Municipal Court(s)**).

JUVENILE COURT
POLICY/PROCEDURE

**GUIDELINES FOR
RECEPTION CENTER INTAKE**

INTRODUCTION

The guidelines established in this policy are established for the purpose of guiding decisions made by staff of the Juvenile Reception Center pursuant to §48.067(1)-(5) for juveniles referred for alleged delinquent activity.

GUIDELINES

In addition to the statutory language of §938.205, 938.207, and 938.208 which provide the basic criteria relative to making initial physical custody decisions, the following guidelines shall be applied to those decisions:

Juveniles referred for the following offenses, but not limited to the following, offenses **shall** be determined presumed by the intake worker to pose a substantial risk of physical harm to another and **shall** be placed in Secure Custody pending a review by the Court:

- a. 1st degree intentional homicide (§940.01) or 1st degree reckless homicide (§940.02)
- b. Felony Murder (§940.03)
- c. 2nd Degree intentional homicide (§940.05)
- d. Armed Burglary (§943.10(2)(a))
- e. Possession with intent to deliver of crack cocaine, heroine, or cocaine.
- f. Possession/Use of a **dangerous weapon** as defined in §939.22(10):

"Dangerous weapon" means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in §941.295(4); or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

- g. Battery which causes substantial or great bodily harm or a substantial risk of great bodily harm to a person age 62 years or older or a person who is disabled (§940.19(2)-(6)).
- h. Mayhem (§940.21)
- i. 1st Degree Sexual Assault (§940.225(1))
- j. Kidnapping (§940.31)
- k. Discharging firearm from automobile or in parking lot if aimed toward another person, any building, or other vehicle. (§941.20(3))

- l. Arson to building (§943.02(1)) if the arson is to the dwelling or property of another or to any other building of another in which there was a substantial risk of harm to another.
- m. Carjacking while possessing a dangerous weapon and causing great bodily harm or causing death (§943.23(1g)(1m), & (1r)).
- n. Armed robbery by use/threat of a dangerous weapon (§943.32(2))
- o. Harassment as a 2nd or subsequent harassment offense with threat of death/great bodily harm or with threat of death/great bodily harm based on information obtained electronically (§947.013(1t),(1v), or (1x)).

Note: There may be other delinquent offenses in which a juvenile poses a substantial risk of physical harm to another or otherwise may meet the criteria for placement in secure custody under §938.208. Those juveniles may be referred for intake at the discretion of law enforcement and held/not held in secure custody at the discretion of Juvenile Reception Center Counselors.

EXCEPTIONS

Exceptions to the presumption that juveniles referred for the above offenses will be held in secure custody may be made only upon approval by the Reception Center Supervisor or Juvenile Court Administrator and then only when the circumstances presented lead to the conclusion that it is detrimental to the best interests of the juvenile and that not holding the juvenile in secure custody does not endanger the public safety.

JUVENILE COURT
POLICY/PROCEDURE

USE OF DETENTION BY MUNICIPAL COURT(S)

POLICY

The placement of juveniles in Detention by Municipal Courts may be made only in the event of non-payment of second or subsequent offense traffic citations only. Any order entered by a Municipal Court placing a juvenile in Detention must include the following information:

1. A specific finding that this is a second or subsequent offense traffic matter and that the use of Detention is for the non-payment of a fine previously entered by the court.
2. The amount of the fine plus any costs due and the specific number of days credit, at a minimum of \$25/day credit.
3. A specific finding that the court determined that the juvenile had the ability to pay the fine from his/her own funds within 12 months and failed to do so.
4. A specific finding that the original order setting the amount of fine included a disposition notifying the juvenile of the specific number of days of detention that would be imposed for failure to pay the fine plus costs.

The placement of juveniles in Detention as the result of any other municipal violation, request, or order to pay entered by the municipal court is not permitted.

JUVENILE COURT
POLICY/PROCEDURE

**TEMPORARY RELEASES FOR JUVENILES IN DETENTION
FOR MEDICAL REASONS**

POLICY

Unless otherwise authorized by the court, juveniles in Detention who need medical attention outside the facility will be transported to their appointment by deputies from the Sheriff's Department.

PROCEDURE

Upon a determination by medical personnel serving juveniles in the Detention facility and/or the Detention Supervisor or designee, an appointment will be scheduled by Detention staff as far ahead of time as possible but in a manner which does not in any way endanger the health or safety of the juvenile or others in the facility.

Detention staff will notify JRC of the appointment time and location, and JRC will prepare a Transport Order for the Sheriff's Department to transport the juvenile to the appointment. The order will be prepared as soon as possible and will include the date, time, and location of the appointment. JRC will also make verbal contact with the Sheriff's Department to inform them of the pending order. Upon preparation of the order, the order will be given to a Juvenile Court Commissioner for approval and then copies provided to the Sheriff's Department as needed.

EXCEPTIONS

There are some circumstances in which the above process is not applicable:

1. For juveniles needing emergency medical attention in which it is not timely to obtain a formal Transport Order, a request for transportation will be made verbally to the Sheriff's Department and/or the EMS system. Only in the event of a life-threatening situation may a juvenile not otherwise authorized by this policy or the Court be transported to an emergency medical facility without law enforcement supervision.
2. For juveniles who otherwise have current authorization for temporary releases from detention for the purpose of attending school, being out with parents or staff, pre-placement or other appointments with the social worker, etc., Detention staff may arrange for the medical release with an approved party. For example, if the court has already authorized TR's accompanied by parents, Detention may arrange for a parent to accompany the juvenile to a medical appointment; a juvenile granted temporary releases for attending school may be accompanied to an appointment by a parent or other party as approved by the Detention Supervisor. This exception does not apply to juveniles who have been granted TR privileges only for the purpose of pre-placement interviews or visits.

3. For juveniles for whom a community placement is imminent, the appointment may be made for a time beyond when the juvenile is expected to be in Detention. If that is not medically advisable, the request to the Commissioner will be for authorization for a parent or other non-law enforcement party to transport the juvenile (e.g. detention staff, social worker, etc.). Should the Commissioner decide that the juvenile requires law enforcement transport, he/she may so order.
4. For juveniles placed in Detention on Sanctions, the Detention Superintendent or Juvenile Court Administrator may authorize temporary releases to a parent, social worker, or other responsible party for purposes of seeking medical, mental health, or dental services.

JUVENILE COURT
POLICY/PROCEDURE

**SHORT-TERM DETENTION
FOR VIOLATION OF ORDER**

**NOTE: DUE TO CHANGES IN THE JUVENILE CODE, THIS POLICY IS
SUSPENDED**

INTRODUCTION

Pursuant to §938.355(6d) and subject to any general written policies adopted by the court or county board, a juvenile who has been adjudged delinquent violates a conditions set forth in the court order, the juvenile's caseworker may, without a hearing, take the juvenile into custody and place the juvenile in a secure detention facility or nonsecure custody for not more than 72 hours while the alleged violation is being investigated.

The use of Non-Secure custody under this statute is **not** approved.

POLICY

A. Juveniles Eligible for Secure Custody:

Juveniles for whom this action may be taken are only those placed in one of the designated intensive supervision programs of:

- Community Adolescent Programs (CAP) Supervision
- Neighborhood Intervention Program Right Track Second Chance (Report Center)
- Neighborhood Intervention Program Intensive Supervision Program (ISP)
- Division of Juvenile Corrections Corrective Sanctions Program
- Home Detention for juveniles **accepted** into but awaiting placement in one of the above programs

The designated programs shall provide Juvenile Reception Center with a current list of juveniles assigned to the program(s).

B. Definition of Caseworker:

For purposes of this policy only, "caseworker" is defined as the provider agency staff member responsible for supervising/monitoring the juvenile's compliance with program expectations. Each agency shall provide the Juvenile Reception Center with a current list of staff approved to take this action and a policy indicating the internal agency process for securing appropriate supervisory approval within the agency.

C. Conditions in which this action may be taken:

Juveniles in one of the designated programs may only be taken into custody and held in Detention for purposes of ensuring safety for the community and/or the juvenile's availability for investigation of the violation it is **necessary** to hold the juvenile in detention and one/more of the following apply:

1. In the event the juvenile is apprehended by law enforcement for alleged involvement in a **new delinquent offense**.
 - a. If referred to JRC by law enforcement, JRC will proceed normally with gathering information and making an intake/custody decision. If a decision is made to continue custody, a physical custody hearing will be scheduled per normal policy. A collateral contact will be made with the designated agency to review whether they wish to hold the juvenile in secure custody under §98.355(6d).
 - b. If the juvenile has been released by law enforcement, the caseworker may take the juvenile in custody and place them in Detention only if the conditions related to public safety or the unavailability of the juvenile are met or it is otherwise necessary to separate the juvenile from other juveniles or their current environment during the period of investigation.
2. In the event of non-delinquent behavior that is significantly disruptive to the program or poses a potential danger to the community and the requirements for ensuring public safety and/or the availability of the juvenile for purposes of investigation are met.
3. As the result of reliable information obtained by the caseworker there is sufficient concern that the juvenile may pose a risk of harm to others or running away so as to be unavailable for contact and resolution of the concerns by the agency/caseworker.

In **all** instances, the apprehension and use of secure custody should occur as immediately as possible after the violation(s)/incident(s) occur and it is determined by the caseworker that the criteria above are met.

In **all** cases, the juvenile shall have been provided with the proper **notice** of the potential of this action, either by the court or by the social worker/caseworker explaining this possibility to the juvenile and obtaining the juvenile's signature on a form acceptable to the court. A copy of either the court order or the signed acknowledgement must be provided to JRC prior to the juvenile being held in secure custody.

Operational procedures related to the processes outlined above between JRC and the related agency shall be developed by JRC, Human Services, and the agencies.

D. Taking into Custody

The operational procedures developed by JRC and the related agencies shall include a process for JRC providing assistance in seeking law enforcement apprehension of a juvenile for whom the agency may not be able to safely take the juvenile into custody or when the juvenile has run away or may run away so as to be unavailable for apprehension.

E. Definition of Investigation

For purposes of this policy/procedure, investigation refers to actions taken by the caseworker to gather information related to the alleged violation(s)/incident(s) and/or information gathered from the juvenile, parent, or other involved party as may be necessary to determine a course of action consistent with the disposition and the need to reasonably ensure public safety.

F. Process of Investigation

In all cases the caseworker is to begin their investigation upon learning of the violation(s)/incident(s) and conclude the investigation as soon as practicable, depending on the availability of information.

G. Release of the Juvenile

The juvenile shall be released from secure custody as soon as possible after the caseworker has completed the investigation. The juvenile shall be released within 72 hours of admission unless a request for a custody hearing is held at the request (made within 48 hours of decision to hold the juvenile) of the caseworker within that 72 hours and the order for secure custody is continued by the court. Release of the juvenile may be made to the caseworker, parent, other responsible adult as approved by the caseworker, or if the juvenile is age 15 or over may be released to himself/herself.

EXCEPTIONS/COMMENTS

None.

JUVENILE COURT
POLICY/PROCEDURE

DESIGNATION OF MENTAL HEALTH REVIEW OFFICERS

POLICY

Pursuant to statutes requiring the Juvenile Court to designate Mental Health Review Officers to review petitions under §51.14(3), Anton Jamieson and David Flesch are designated for this purpose.

APPENDIX I
ALPHABETICAL LIST OF POLICIES/PROCEDURES

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