

# South Dakota Juvenile Detention Alternatives Initiative (JDAI)

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## **CASE PROCESSING AGREEMENT (CPA) TEMPLATE**

### **I. PURPOSE**

*The case processing agreement (CPA) describes the processes by which juvenile cases are handled and articulates the agreements between various youth-serving entities and stakeholders. Case processing for juveniles in South Dakota is framed by South Dakota Codified Law, Supreme Court Operating Rule 15-14, research, and best practices in order to serve the best interests of youth and community safety. The CPA should be followed with fidelity and monitored by the youth-serving entities and stakeholders. The CPA should be utilized as a training and orientation tool for new employees working in the juvenile justice system.*

### **II. DEFINITIONS**

*The following are definitions of regularly used terms throughout the document and in daily discussions regarding youth and the juvenile justice system.*

#### **Abscond**

A youth is considered as an absconder if they run away from their place of current residence when they are gone at least overnight without the permission of their parent/guardian, Court Services Officer, the Court, or another authority figure and their current whereabouts are unknown to such authority figures. Any instance where a youth runs away from a detention or shelter facility will constitute as absconding.

#### **Advisory Hearing**

The Advisory Hearing is the initial hearing conducted by the court to inform the child and the child's parents, guardian, custodian, or other interested parties of their statutory and constitutional rights.

#### **Adjudicatory Hearing**

The Adjudicatory Hearing is a hearing to determine whether the allegations of a petition alleging a child to be in need of supervision or a delinquent are supported by evidence beyond a reasonable doubt

#### **Alternative to Detention (ATD)**

Alternatives to detention (ATD) programs are based on research and are considered best practices for youth who do not require secure detention. ATDs are community and family-based and focused on specific outcomes, including 1) that participating youth will appear in court for scheduled hearings and 2) that these youth will not engage in delinquent behavior during the pendency of their court case. ATD programs include non-secure settings, such as reception centers, shelter care, Evening Report Center, and Community Supervision/Community Monitoring with or without electronic monitoring. Court

notification, transportation to and from court hearings and public safety are central components of successful ATDs.

### **Community Supervision/Community Monitoring**

Community Supervision/Community Monitoring is a pre-dispositional alternative which allows youth to remain at the home of their parent/guardian/custodian with an additional level of supervision and support during the court process. The youth on Community Supervision/Community Monitoring may or may not also have GPS Electronic Monitor to further monitor their whereabouts.

### **Conditional Release**

A conditional release is the release of a youth, with specific conditions, to the custody of a parent, guardian, or custodian as an alternative to temporary placement in detention or shelter care, pending a Temporary Custody/Detention Hearing.

### **Court Expediter/Placement Coordinator**

The Court Expediter/Placement Coordinator is an assigned staff member who gathers, processes, and disseminates case information for youth pending a Temporary Custody Hearing (TCH) prior to the scheduled Hearing. They organize and facilitate the daily Court Expediter Staffing/Pre-Hearing Meeting where such information is discussed. The Court Expediter/Placement Coordinator also tracks placement of youth into and out of detention and detention alternatives.

### **Court Expediter Staffing/Pre-Hearing Meeting**

Prior to each Temporary Custody Hearing (TCH)/Detention Hearing, a Court Expediter Staffing/Pre-Hearing Meeting will be conducted by the Court Expediter/Placement Coordinator at which time the day's cases and recommendations for the Court are discussed. Regular attendees include the Court Expediter/Placement Coordinator, a representative from the State's Attorney's Office and a Defense Attorney representative. Other attendees may include: a representative from the alternative program, a representative from the detention center, representatives from the Department of Social Services, Department of Corrections, Court Services, the Schools, Law Enforcement, diversion programs, and any additional related professionals working with the youth and/or family.

### **Delinquent Child**

A delinquent child means any child ten years of age or older who, regardless of where the violation occurred, has violated any federal, state, or local law or regulation for which there is a penalty of a criminal nature for an adult, except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as misdemeanors, or petty offenses or any violation of [35-9-2](#) or [32-23-21](#).

### **Dispositional Hearing**

A Dispositional Hearing is a hearing held after adjudication at which the court makes an interim or final decision in the case.

### **Electronic Monitoring**

Electronic Monitoring is an additional option while youth are referred to Community Supervision/Community Monitoring to further track the whereabouts of the youth. The youth is monitored in the community by way of a GPS ankle monitor and/or a SCRAM (alcohol detective device) ankle monitor.

## **Evening Reporting Center**

The Evening Reporting Center (ERC) is an alternative to secure detention that is accessible in the afternoon and early evening hours during the week and during the day on the weekends. The days and times can vary based on the need in each location. The goal of this alternative is to introduce the youth to pro-social activities, to ensure that the youth are attending their court hearings, and are not committing additional delinquent offenses while their case is pending.

## **Intake Officer**

As per the authority designated in [SDCL 26-7A-1\(20\)](#), the presiding judge in each circuit shall appoint juvenile detention staff or juvenile reception and intake center staff to serve as intake officers.

## **Juvenile Justice and Delinquency Prevention Act (JJDP)**

Congress enacted the Juvenile Justice and Delinquency Prevention (JJDP) Act (P. L. No. 93-415, 42 U.S.C. § 5601 et seq.) in 1974 and [reauthorized](#) the majority of its provisions in 2002. The JJDP Act mandates that states comply with four core protections to participate in the JJDP Act's Formula Grants program. This act specifically dictates where youth can be confined or detained and for how long.

## **Non-Secure Detention**

Non-Secure Detention is a residential facility in which the youth is not physically restricted from leaving the facility. Non-Secure Detention is the most restrictive alternative to secure detention option on the continuum of alternative programming.

## **Offense**

Behavior by a youth that would constitute a violation of the criminal law, a probation violation, or conduct which would meet the criteria of a Child in Need of Supervision as defined under law.

## **Placement Facility**

A placement facility is defined as a secure or non-secure detention facility, shelter care, or other residential facility.

## **Pre-Disposition Youth**

A pre-dispositional youth is a youth who has allegedly committed an offense and is therefore under the jurisdiction of the Juvenile Court, but has not yet had the final disposition for his or her case determined by the Court

## **Reception Center**

A Reception Center offers 24/7/365 screening and referral services for youth in the community. The Reception Center is an option for Law Enforcement to release youth who are not appropriate for Secure Detention. The Reception Center provides resources and assistance to youth and families.

## **Risk Assessment Instrument (RAI)**

A tool used to assess a variety of risk factors relative to the likelihood that a youth will abscond, fail to appear in court, or seriously re-offend prior to his/her scheduled court appearance(s). In South Dakota, the RAI is completed by an Intake Officer who acts on behalf of the Judge. Each Intake Officer is appointed by the Presiding Judge within their Judicial Circuit as an Intake Officer.

## Secure Detention

Usually refers to the placement of a youth in a secure facility under court authority at some point between the time of referral to court, intake and case disposition. Detention prior to case disposition is known as pre-dispositional detention. At times there is a need for detention after sentencing, known as post-dispositional detention.

## Shelter Care

“A shelter is a non-secure residential facility staffed to provide time-limited housing for a youth as an alternative to secure detention. Youth are typically supervised by staff 24 hours a day, seven days a week. Although shelter programs may have some hardware (locks on the doors and windows), shelter care depends on close staff supervision.... [and] provide[s] “normal” age-specific services: education, recreation, tutoring, and life skills training”

(<http://www.aecf.org/m/resourcedoc/AECF-ConsidertheAlternatives-1999.pdf>)

*A physically-unrestricting home or facility for temporary care of a child.*

## System-level performance measures

Indicators that provide information about the actual changes, or lack thereof, in the target system (e.g., court system, school system, or program as a whole) that are directly related to a program's goals and objectives. Typically, these include indicators related to the South Dakota RAI, juvenile crime indicators, the Average Daily Population in secure detention and in alternative placements, and Lengths of Stay, with data disaggregated by race/ethnicity. State and local staff are responsible for collection, reporting and monitoring performance of secure detention, ATDs, the RAI and associated case processing.

## Temporary Custody Hearing (TCH) or Detention Hearing

A [\*Temporary Custody Hearing \(TCH\)\*](#), also known as a Detention Hearing, is to be held within 24 to 48 Hours (excluding weekends and holidays) following a placement in detention, a detention alternative, or conditionally released. The Hearing serves to make a probable cause finding and to determine whether the youth will be held in detention, referred to an alternative, or released with or without conditions pending their next court hearing.

## III. Intake Referral Process

*When a Law Enforcement Officer comes into contact with a youth who has alleged to have committed an offense, there are multiple options available to the Officer. The Officer holds the discretion to make a referral to any of the available options based on their assessment of the offense and the situation.*

- A. When a youth has allegedly committed an offense, the Law Enforcement Officer’s available options include:
  - 1) Taking no further action
  - 2) Releasing the youth in the field with a report only
  - 3) Releasing a youth in the field with a citation

- 4) Contacting the designated Intake Center for RAI completion (either in person or via phone depending on location and circumstances)
- B. If a youth is appropriate to be straight released in the field with or without a citation or warning, the Officer:
- 1) Contacts the youth's parent/guardian/custodian to inform them of their contact with the youth
  - 2) Forwards their report to the State's Attorney's Office for a Preliminary Investigation
    - i) Within a reasonable amount of time, the State's Attorney's Office reviews the report in addition to any other information they receive and decides what next steps may occur. The options can be, but are not limited to: dismissing the charges, referring the charges to the youth's home county, refer the youth to a diversion program, or to charge the youth formally in juvenile court. The options available to the State's Attorney reviewing the case are included in [South Dakota Codified Law 26-7A-10](#).
- C. If a youth is not appropriate to be straight released in the field with or without a citation or warning, the Officer:
- 1) Contacts their designated Intake Center for the completion of a RAI by an Intake Officer
    - i) The Intake Officer completes the RAI and advises the Law Enforcement Officer of the RAI score and recommended outcome
      - (1) Depending on the outcome of the RAI, the youth may be released, referred to an alternative (if available), or referred to a secure detention facility
        - (a) If the detention facility location is different from the Intake Center location, it is up to the Law Enforcement Officer to contact the detention facility regarding their arrival status
        - (b) The Law Enforcement Officer would also advise the Intake Officer regarding placement location so the intake paperwork (the RAI and Temporary Custody Directive) can be routed to the detention facility

#### **IV. Risk Assessment Instrument (RAI) Process**

*A youth is referred for the completion of a RAI when a Law Enforcement Officer determines that the youth cannot be straight released in the field; this process can be completed over the phone. An Intake Officer completes the RAI to determine whether a youth should be released, released with conditions, referred to an alternative to detention program, or referred to secure detention. The purpose of the RAI is to determine a youth's risk to abscond, fail to appear in court, or seriously re-offend prior to his/her scheduled court appearance(s).*

A. The **exceptions** to completing a RAI are:

- 1) Youth who are referred by a non-JDAI jurisdiction
  - i) Federal Authority, Tribal Authority, Out of State Referrals (i.e. out of state runaways)
- 2) Department of Correction's youth who receive **only** an aftercare violation
- 3) Youth who are sentenced/ordered to be in detention by a Judge without a new charge
- 4) Youth with only a Magistrate Court charge or warrant
- 5) Youth with only a citation(s)
- 6) Youth referred for only a mental hold
- 7) If a youth is referred to detention on a bond violation

B. The Intake Officer will utilize the information from Law Enforcement and the UJS Odyssey System to complete an accurate RAI.

- i) The Intake Officer will gather collateral information from the Law Enforcement Officer, Department of Corrections, Court Services, and/or the Department of Social Services, if applicable, to identify the most appropriate placement decision, using the least restrictive placement, as indicted by [South Dakota Codified Law 26-7A-12](#).
- ii) There may be other professionals or responsible adults related to the case youth that would be able to provide collateral information. When this information is available, the Intake Officer is encouraged to receive and document that information.

C. RAI Scoring

- 1) The indicated decision on the RAI should be followed by the Intake Officer (release, refer to an alternative, refer to detention) unless a justified override is present based on the offense or the circumstances surrounding the situation.

## V. Overrides

*If an override of the RAI's indicated decision is to take place, an Intake Officer and an agency Supervisor are required to determine whether an override is necessary and/or appropriate. If the Intake Officer is not able to have a discussion with a Supervisor, they must make every effort to contact another Intake Officer for approval.*

### **The override options include:**

- 1) Override Down

- i) The decision is less restrictive than indicated on the RAI
- 2) Parent, Guardian, or Custodian is not available or is not suitable to receive the youth
  - i) If a youth is appropriate to be released and a parent refuses to pick up their youth or if a parent is unable to be found within a reasonable amount of time, the Intake Officer will follow their internal protocol of notifying the Department of Social Services.
- 3) Run Risk
  - i) Can only be utilized when there is an official documented history of runaway reports
    - (1) A justification is required when this override is utilized
- 4) Minor has failed a detention alternative program
  - i) This override is only to be utilized if a youth has allegedly committed a new delinquent offense and an arrest report is generated while **currently** on an alternative program.
  - ii) The alternative staff shall work with the youth to maintain them in the alternative setting, if at all possible, prior to utilizing the override into a higher level of placement..
  - iii) The youth's placement will be determined by the RAI and their current behaviors
- 5) Minor held pending referral to mental health/chemical dependency agency
  - i) The youth is awaiting an assessment or treatment and is not suitable to remain in the community
- 6) Victim in the home and there is an immediate safety concern
  - i) This is to be utilized for those youth who are assaultive in the home and/or placement environment and are not able to safely return home or be released to a guardian, relative, responsible adult or designated program
- 7) Close proximity of victim and there is an immediate safety concern
  - i) This is to be utilized for those youth who are assaultive to an individual that doesn't live in their home, but they would have contact with this individual on a regular basis and are not able to safely return home or be released to a guardian, relative, responsible adult or designated program
- 8) Youth is held on a warrant
  - i) Failure to Appear Magistrate Warrant
  - ii) Failure to Appear Juvenile Warrant
  - iii) Arrest Warrant

- iv) Failure to pay warrant
- 9) Other
  - i) Placement Interruption – no appropriate release options and an alleged offense has been committed
  - ii) Strong indication of imminent violence
  - iii) Youth is held per a Judicial Order
- B. All overrides should be the least restrictive suitable alternative.
- C. The resulting placement decisions from a completed RAI include (from least restrictive to most restrictive): straight release (without conditions), conditional release (if available), referral to Shelter Care, referral to Non-Secure Detention, referral to Secure Detention, and DOC Hold Only.
  - 1) If the intake decision is “DOC Hold Only,” then the Intake Officer is deciding that the youth will be released on all local county charges and held only because of the DOC Hold. In this instance, a Temporary Custody Hearing/Detention Hearing ***does not*** need to take place.
- D. If an override is utilized, Intake Officers must provide justification as to the purpose of using the override, and seek Supervisor approval. This is especially important when using the “other” override reason.

## **VI. Court Expediting/Placement Coordination Process**

*The Court Expediting/Placement Coordination process takes place to ensure that the youth’s case is discussed thoroughly regarding the appropriate placement decision options, to provide the same information to all parties involved, and to ensure that the Judge obtains timely, consistently prepared and comprehensive information in order to make an informed decision regarding next steps in each youth’s case.*

*Individuals typically involved in the Court Expediter Staffing/Pre-Hearing Meeting include: the Court Expediter/Placement Coordinator, a representative from the State’s Attorney’s Office and a Defense Attorney representative. Other attendees may include: a representative from the alternative program, a representative from the detention center, representatives from the Department of Social Services, Department of Corrections, Court Services, the Schools, Law Enforcement, diversion programs, and any additional related professionals working with the youth and/or family.*

*The Court Expediter Staffing/Pre-Hearing Meeting is a mechanism to review the pertinent information as a group to ensure that all recommendations for the youth are appropriate, are based on the information available, and are the least restrictive alternative available.*

- A. The Court Expediting/Placement Coordinating process begins with the preparation of the pertinent information regarding the youth's background, family history, circumstances pertaining to the youth's contact with Law Enforcement, and resulting placement into detention or referral to an alternative.

***Each area implementing a Court Expediting/Placement Coordination process should discuss what information is beneficial to have available and the process for how that information will be distributed and presented. This process would be outlined in this section.***

- B. In addition to reviewing any information received during the youth's intake, the Court Expediter/Placement Coordinator will attempt to make contact with the parent/guardian/custodian, the youth, any entity working with the youth and/or their family, the youth's school, and any additional professional contacts that may have pertinent information in order to gather correct and thorough information that is relevant to the pretrial placement decision.
- C. The pertinent information collected is utilized at the Court Expediter Staffing/Pre-Hearing Meeting in an effort to develop recommendation(s) to the Court in rendering a decision as to the youth's placement or release and applicable conditions.
- D. Subsequent to the Court Expediter Staffing/Pre-Hearing Meeting, the Court Expediter/Placement Coordinator will attend the Temporary Custody Hearing/Detention Hearing
  - 1) The recommendations from the Court Expediter Staffing/Pre-Hearing Meeting will not necessarily be unanimous, nor is the Judge constrained by the recommendations offered by the group.
- E. The Court Expediter/Placement Coordinator will also track the cases from initial RAI through Disposition to ensure that there aren't any youth whose cases are pending in court for long periods of time without regular reviews.

## **VII. Temporary Custody Hearing/Detention Hearing**

*The Temporary Custody Hearing (TCH), also known as a Detention Hearing, occurs in order to review the placement decision and complete a plausible cause finding.*

- A. The TCH/Detention Hearing will be held each within 24 hours for CHINS cases and 48 hours for Delinquent cases at least by phone if it cannot be held in person
- B. All recommendations from the Court Expediter Staffing/Pre-Hearing Meeting are presented to the Court for consideration

## **VIII. Referral to an Alternative to Detention (ATD)**

- A. A Judge may refer a youth to an ATD program with or without additional conditions at any court hearing prior to disposition.

- B. Youth who are referred to an ATD program will be assigned to that ATD program until their disposition unless otherwise specified by the Judge.
- C. Youth failing to comply with the requirements of an ATD program may be subject to a status or review hearing before the Judge to reconsider their status.

*Each jurisdiction will review the need for alternatives and, if implemented, will also need to identify a local process for handling youth who fail to comply with the requirements of an ATD program. This process would be included in this section.*

## **IX. Removal from an Alternative to Detention (ATD)**

- A. A youth's time spent in an ATD program will continue until one of the following circumstances occurs:
  - 1) The youth's case is disposed of;
    - i) Once a Dispositional Hearing is held, the pretrial phase is complete
  - 2) The Judge decides that the youth is no longer required or allowed to be in the ATD program;
  - 3) The Court Expediter Staffing/Pre-Hearing Meeting provides a recommendation to the Judge that the youth should no longer be required or allowed to be in the ATD program;
  - 4) The youth's placement is terminated due to the youth's failure to comply with the program requirements or due to the youth's contact with Law Enforcement on an additional alleged offense (pending judicial authorization for removal).

## **X. Case Review Process**

- A. In the event a youth's case has not yet had a dispositional hearing within fourteen (14) days of his or her TCH/Detention Hearing, the youth's status in detention or an ATD program is reviewed and discussed.
  - 1) The Court Expediter Staffing/Pre-Hearing Meeting team reviews the current status of all youth who are pending disposition to recommend whether or not they need to remain on their current level of supervision or if that supervision should be increased or decreased based on the youth's status and length of time until disposition.
  - 2) It's the best practice standard to review cases every two weeks to discuss the status of the pending cases

## **XI. Warrant Process**

*A warrant process would be identified within jurisdictions that have a high number of youth who are being referred to detention due to warrants. Each jurisdiction will review the number and type*

*of warrants locally to identify whether or not a specific warrants process is needed and, if so, would memorialize that process within this section.*

## **XII. Weekend Review Hearings**

*A Weekend Review Hearing would be implemented within jurisdictions that have a high number of youth who are eligible for release, but remain in detention over the weekend due to no hearing capability over the weekend. Each jurisdiction will review the number and type of youth in detention over the weekends to identify whether or not a weekend review hearing process is needed and, if so, would memorialize that process within this section.*