

Virus Response General Procedure for the Release of Detained Youth

While standard trial court proceedings are suspended due to the Coronavirus outbreak a number of juvenile respondents are detained and awaiting release, having been determined to be no longer a danger to the community by their treatment team. Absent a procedure to allow for their release to the community these respondents remain in residential settings separated from their families at great expense to the county. This flow chart is a proposal for a procedure to address recommendations for the release of these respondents and a similar procedure could be used to address the return to parents of children in foster care in neglect cases.

1. Caseworker (probation officer) for a respondent detained at a Youth Treatment Center confers with Treatment Center Staff and makes a preliminary determination recommending the release of a resident respondent to the community when the youth is considered to be suitable for release and no longer a danger to the community.
2. The caseworker checks on the suitability of the proposed appropriate community placement for the respondent, such as a return to the parent, and determines whether the parent or caregiver for the respondent has any concerns or objections to the return home. The caseworker includes the information gathered here in a written report.
3. If the respondent has an appropriate community placement the caseworker generates a report recommending release of the respondent and return to the community and forwards a written report recommending release to the prosecutor's office and the attorney for the respondent. The caseworker can include any suggested language for the court order in the report such as "respondent is to remain on house arrest and only leave home as approved by his/her probation officer until further order of the court."
4. The attorney for the respondent contacts the prosecutor's office to determine if there is any objection to the release of the respondent or the review of the reports by the court.
- 5 (a). If there is no objection to the court's review of the reports and the release of the respondent, the attorney for the respondent emails the reports to the jurist with a request for an Order for De-escalation and the prosecutor emails the court indicating that they have no objection to an order for release. (Note: In my experience the prosecutor has no objection to release for the overwhelming majority of these recommendations).
- 5.(b) If there is an objection to the release of the respondent by the prosecutor the attorney for the respondent emails the jurist indicating that the caseworker is recommending a release and the prosecutor objects. The jurist can then schedule a Zoom conference with the attorneys to determine the nature of the objections. The jurist can then decide if an actual hearing should be scheduled or if the attorneys should submit briefs as to the issues presented.

6. The jurist issues an Order granting or denying the request for release after a review of the written reports and any briefs or hearings. The jurist emails the Order to the caseworker and copies the prosecutor and the defense attorney.

7. If the Order directs the release of the respondent, as soon as the Youth Treatment Center receives the Order the respondent is to be released, regardless of whether the Order has been formally entered into the Odyssey case record. If there is any concern or question as to the authenticity of the Order by the caseworker, the Treatment Center staff or the attorneys, they can email the jurist directly with a phone number requesting the jurist give them a call confirming that he or she did in fact issue the order. Waiving the requirement that the Order be entered in Odyssey before being acted on will allow this procedure to accomplish what the jurist orders without the added delay of entry of the Order by the clerk's office given that at this time it cannot be determined when the clerk's office would be in a position to process these orders.

8. The jurist provides a copy of the Order to the clerk for processing as soon as this can be done and the clerk processes the Order.

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