

APPENDIX C

CHECKLISTS FOR FAMILIES

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CHECKLIST OF STEPS TO TAKE AFTER THE ARREST

- A youth may only be held in a police holding cell for up to six hours. Arrested youths must be held separately from adults.

- If the police do not immediately release the youth home and the youth is being held at a police station or in pre-arraignment detention (an Alternative Lockup Program (ALP)), the youth is entitled to have a bail commissioner set bail. (A bail commissioner is the state-appointed person who may set the amount of bail for a youth detained at a police station prior to arraignment in court, and who recommends to the court the amount of bail that should be set for the youth on each criminal case.) If the probation officer recommends that the youth be held, this recommendation is supposed to be forwarded to the bail commissioner. The bail commissioner then should hold a hearing at the police station or in pre-arraignment detention. If your child is not getting released from the police station or an ALP, parents should insist that the police call a bail commissioner.

- If your child is being held in a police station or in pre-arraignment detention (an ALP), inform those running the facility of his medical needs and medications. You also can ask what resources are available to staff for your child (such as medical staff on call) and how the facility can best meet your child's medication needs.

- If the family cannot afford to hire a lawyer for the youth, the court will appoint a lawyer at the arraignment to handle the case. If you plan to hire a lawyer for your child, try to hire one right away, even before the arraignment.

- It is essential to your child's interests that you attend the arraignment and bail hearing. The court will require the youth's parent or legal guardian to appear in court for this hearing and future proceedings.

- When speaking with probation, remember that information provided is not confidential. You may choose to decline to answer questions. If you do answer, you should answer truthfully.

- Even if your child needs services, it is better to help your child

access them in the community, rather than through the courts. So, if you can avoid having your child held in a detention facility, you should. Talk to your child's lawyer about your child's strengths and explain why your child should be able to come home with you.

- If your child is detained, encourage him to behave well in that setting. Urge him to participate in school and stay out of fights. This information will be provided to the court.
- Investigate any proposal to divert your child from the juvenile justice system carefully before agreeing to participate.
- Do not discuss your child's mental health problems with anyone else in the court proceeding (such as the probation officer or judge) without first talking about these problems with your child's lawyer.
- When speaking with an evaluator, parents should answer truthfully. However, parents are not obligated to respond to questions and can choose not to answer a question or questions.

CHECKLIST OF STEPS TO TAKE DURING TRIAL, ADJUDICATION, AND DISPOSITION

Helping your child's lawyer prepare for trial

- Provide information to your child's defense lawyer so that the lawyer may prepare. Give the lawyer contact information for and information from individuals who have worked with your child, such as a school counselor, pastor or minister, pediatrician, or therapist.
- If you think a psychological or psychiatric evaluation of your child would be worthwhile, talk to your child's lawyer about this issue as well.
- Ask your child's lawyer to evaluate the availability and appropriateness of a disposition (the final outcome of a case in the juvenile justice system) that allows for your child to receive community-based behavioral health services.
- Discuss with your child's lawyer, while preparing the case, the effect of the outcome on your child's juvenile record.
- Discuss with your child's lawyer the possible options of going to trial or accepting a plea bargain.
- Plan to attend the trial to support your child.

During the sentencing/disposition phase

- Provide information to your child's defense lawyer so that the lawyer may prepare for the disposition phase (the phase in which the final outcome of the case is determined). In this phase, your child's lawyer will seek to provide the court with a full picture of your child and his needs.
- If you haven't already done so, give the lawyer contact information for and information from individuals who have worked closely with your child, such as a school counselor, pastor or minister, pediatrician, or therapist.
- For youths with mental health or substance abuse treatment needs, the sentencing phase is critical. It is a key point at which a youth

can try to access appropriate mental health and substance abuse services. Talk to your child’s lawyer if you believe that your child needs such services.

- If you think it would be worthwhile for your child to undergo a psychological or psychiatric evaluation in order to help the judge decide the disposition, talk to your child’s lawyer about this issue. This evaluation is known as a “15(e)” evaluation, from Mass. Gen. Laws, ch. 123, § 15(e).
- Ask your child’s lawyer to evaluate the availability and appropriateness of a disposition or outcome that allows for the implementation of community-based behavioral health services. There is growing consensus among mental health clinicians that clinical services that wrap around the youth are more effective than facility-based treatment in addressing mental health problems and rehabilitating youths. In Massachusetts, Medicaid-eligible youths with Serious Emotional Disturbance can now access a range of community-based services.

If your child is being placed on probation

- Participate in the interview being conducted by the probation officer. The report that the officer produces as a result of this interview includes a detailed profile of the youth, including a risk/need classification, that is then used to develop supervision plans.
- Examine the proposed conditions of probation. If any of the proposed conditions would be difficult to satisfy, tell your child’s lawyer since a violation of probation conditions is a frequent cause of commitment to DYS. For example, if a proposed condition is regular school attendance and your child has a history of truancy, it is important to tell the lawyer so that that condition can be modified or other conditions can be substituted for it.
- If your child’s probation officer thinks your child has broken a rule, the officer will send him a letter called a “surrender notice” requiring him to come to court for a hearing. When the youth arrives at court, he will be appointed a lawyer. If your child liked his original lawyer and wants him or her reappointed for this hearing, he should: 1) let the original lawyer know about the surrender notice and the hearing date; and 2) ask the judge to have the same lawyer reappointed -- citing trust, communication, and knowledge of the child’s unique circumstances.

CHECKLIST OF STEPS TO TAKE UPON COMMITMENT AND DURING ASSESSMENT

- Upon commitment to DYS, the youth's parent or legal guardian maintains legal custody over the youth (unless a parent cannot be found and no legal guardian has been appointed). Be as involved with your child's situation as possible. The more parental involvement during commitment (and particularly during the assessment phase), the better your child is likely to do.
- Once a youth is committed to DYS custody, he will travel to a DYS facility in a sheriff's van and placed on an assessment unit.
- Within 24 hours of your child's arrival on the assessment unit, DYS does a preliminary clinical assessment, including a suicide screen.
- Within two business days of commitment, DYS should assign your child a DYS caseworker who will coordinate an assessment of your child's needs. Be sure to participate in the assessment process, described below.
- Encourage your child to behave well on the assessment unit and to participate in the assessment process. Encourage your child to make the best of an unfortunate situation.
- The DYS caseworker contributes to a "Case History," a document with multiple sections on various aspects of your child's history. These sections include family involvement, educational history, prior juvenile record, presence or absence of substance abuse, medical and psychiatric history, and review of risk factors related to offending. As part of this process, the caseworker administers a Youth Level of Service/Case Management Inventory (YLS/CMI) assessment to assess risks and needs.
- Also as part of the assessment, the clinician on the unit where your child is being held will administer the Child and Adolescent Needs and Strengths (CANS) assessment (to measure needs and assist in developing a service delivery plan) and one or more substance abuse assessment tools, to determine whether your child needs substance abuse treatment. The results of these assessments are included in the Case History.
- DYS has 30 days to complete the full assessment. Since time spent on an assessment unit does not count toward treatment time and

services in the assessment unit are more limited than on treatment units, parents should carefully monitor the assessment process and get involved if it appears that delays are occurring. Before the end of the 30 days, check in with your child's caseworker to discuss how the assessment process is progressing. If 30 days have already passed, advocate for your child to finish the assessment process and leave the unit.

- As part of the assessment, DYS should interview a youth's parents or legal guardian. Be truthful in your answers, but think carefully before disclosing certain information. For example, inform DYS about developmental delays, mental health hospitalizations, diagnoses, medication, and cognitive/learning issues. However, before you discuss with DYS an issue that could expose your child to criminal liability, talk to your child's lawyer. Similarly, consult with your child's lawyer before telling DYS about any history of your child acting out sexually. Parents are not obligated to respond to questions posed by evaluators and can choose to not answer a question or questions.
- Work with the youth's lawyer during the assessment phase to make sure DYS receives copies of the youth's school records, mental and physical health records, and any other information that would be useful to determine the youth's needs. Keep a copy of the records that you provide to DYS. You may want to reference them during your child's commitment or provide additional copies to DYS or program staff.
- If your child's lawyer arranged for a clinical evaluation during the course of representation, discuss with the lawyer whether that evaluation should be shared with DYS. (If a court clinic evaluation has been conducted, the court will provide the clinical portions of the report to DYS after DYS commitment for use in assessment and planning.)
- If your child receives special education services, inform DYS during the assessment process. Provide DYS with copies of your child's Individualized Education Program (IEP). If your child has an IEP, he has the right to receive special education services as outlined in his IEP while in DYS custody. Work with DYS to ensure that the whole IEP is implemented.
- Request a copy of your child's DYS Case History so that you may verify its accuracy and understand the DYS assessment of your child. A parent, legal guardian or attorney has the right to receive

a copy of this document (and any other document contained in a youth's DYS records) by making an oral or written request. If you make the request orally, be prepared to present proper identification. If you make the request in writing, keep a copy of your request.

CHECKLIST OF STEPS TO TAKE REGARDING THE STAFFING AND CLASSIFICATION MEETINGS

The staffing meeting is a meeting of DYS staff and, potentially, the youth, the youth's lawyer, a parent/legal guardian and the parent/legal guardian's personal representative. The purpose of the meeting is to recommend a range of time which a committed youth should spend in secure and residential treatment facilities and identify potential placement locations.

The classification meeting is a meeting of DYS administrators (known as the DYS Regional Review Team) and, potentially, the youth's lawyer, a parent/legal guardian and the parent/legal guardian's personal representative. The purpose of the meeting is to review the recommendation made by those who attended the staffing meeting and to determine both the range of time which a committed youth will spend in secure and residential treatment facilities and the placement location itself.

Before the staffing meeting

- Once a youth is sent to an assessment unit and a DYS caseworker is assigned to your child, send a letter to the caseworker indicating that you plan to attend the staffing meeting and that you would like to receive notice of the date and place of the meeting.
- Be in touch with your child's lawyer as the lawyer also should attend the staffing. You and the lawyer should agree to tell each other immediately upon receiving any notice of the meeting.
- Think about possible documents to bring with you (for example, documentation describing mental health problems and treatment recommendations).
- Think about possible participants and supporters to bring with you.
- Talk to, or ask your child's lawyer to talk to, your child's DYS caseworker and DYS clinician prior to the staffing and ask what they intend to recommend regarding time and placement. At this point, share appropriate information with the caseworker and clinician.

- Talk to your child's lawyer whether it is appropriate to ask for DYS to give credit for time served. This is particularly appropriate if your child has already served 30 days or more.
- Prepare your child to attend the staffing. Tell your child that it is important to have a serious demeanor and respect the process.

After the staffing meeting and before the classification meeting

- After the staffing meeting, the recommendations developed at that meeting will be forwarded to the DYS Regional Review Team, who will hold a classification meeting. Immediately after the staffing meeting, send a letter to your child's caseworker restating your main points regarding placement, duration and the service plan. Ask that the letter be submitted to the Regional Review Team for consideration at the classification meeting.
- At the staffing, DYS staff complete staffing notes and an initial service delivery plan. Send DYS a written request for these documents.
- If you or your child is dissatisfied with the way the staffing meeting was conducted, complain in writing to the DYS Regional Director, referring to the DYS region responsible for your child.
- If possible, attend your child's classification meeting. If you are able to attend, ask DYS in writing to provide you with notice of the date and place of the meeting.

After the classification meeting

- The Regional Review Team should issue a written decision within five business days of the classification meeting. Request a copy of this decision.
- A youth may appeal the decision in writing to the DYS Deputy Commissioner in DYS' Central Office in Boston within seven business days of receiving the decision. The Deputy Commissioner must respond in writing within 14 business days of receiving the appeal. If your child wants to appeal, he should ask his lawyer for help in writing the appeal request. The DYS caseworker also is required to assist the youth. The decision on appeal is final.

CHECKLIST OF STEPS TO TAKE BEFORE TRANSITIONING BACK TO THE COMMUNITY

For detained youths

- Detained youths who are discharged from DYS with a current medical problem must, upon request, be referred to a previous provider or another community provider.

For committed youths

- Think about when transition to the community will occur for your child. Transition to the community may occur when a youth's term of commitment has ended at age 18 or 21 or prior to that time pursuant to a grant of conditional liberty.
- Meet with DYS to start working on your child's transition as early as possible. Your child will have both a service delivery plan and a relapse prevention plan developed in preparation for his release. These plans describe how your child will transition from DYS confinement to the community. The DYS caseworker completes these plans working with the youth, his parents or legal guardian, DYS staff, and other community resources.
- The service delivery plan should be individualized and should describe the services the youth will receive in the community. These services may be provided directly by DYS or by other entities.
- At a minimum, intensive transition planning should begin when DYS holds a 90-day prior to release treatment meeting, attended by the caseworker, youth, parent/legal guardian, and program clinical staff. This is the first of three monthly meetings at which participants review and revise the youth's service delivery plan.
- From that point until release, the caseworker should follow through with any issues that may affect the youth's release date.
- At the 60 day meeting prior to release, participants shall review and sign off on the youth's relapse prevention plan. DYS expects that a youth will continue to work on and refine his relapse prevention plan up to the time of transition to the community.

- Medical staff are responsible for providing a referral to a local provider to follow-up on any existing medical or psychiatric problems when a committed youth returns home and for the duration of the youth's commitment. Such planning must be made in consultation with the parent or legal guardian and youth.

- The DYS caseworker and DYS clinician will talk to parents/guardians and the youth regarding relevant options for behavioral health services and which service(s) might best fit, including referral to Intensive Care Coordination (ICC) or other MassHealth services available to Medicaid-eligible youths. With consent, the DYS caseworker and DYS clinician will arrange for a referral to the local provider, including a Community Service Agency, and provide follow-up as needed to ensure that an initial intake and service assessment occurs. As DYS does not have legal custody of your child, it is the parent/legal guardian who decides which service is best.

Elements of a good transition plan

- In preparing for your child's transition to the community, ensure that the DYS service delivery plan addresses any of the following areas, as needed. As each youth's plan is individualized, it may or may not include these specific services, and it may include other services not listed here.

- health insurance coverage;
- medical care;
- dental care;
- mental health and substance abuse treatment;
- crisis intervention;
- anger management groups;
- skills training groups;
- victim awareness groups;
- sex offender treatment;
- violent offender treatment;
- family counseling and referrals;
- respite care;
- vocational training;
- employment issues;
- educational services (including by addressing specific issues including transcript transfer, access to the local school district, pursuit of a Massachusetts State High School Equivalency Diploma (GED), and

- placement);
- living arrangements (including any foster care, independent living, or step down transition programs);
 - parenting issues;
 - substance abuse screening and testing;
 - monitoring, including electronic monitoring;
 - assistance in fulfilling any legal obligations including
 - victim notification requirements of Mass. Gen. L. ch. 258B, § 3(t);
 - sex offender registry requirements of Mass. Gen. L. ch. 6, §§ 178C-178P.

CHECKLIST OF STEPS TO TAKE BEFORE SIGNING A GRANT OF CONDITIONAL LIBERTY

Before your child signs a grant of conditional liberty

- Encourage your child to show you the proposed grant before signing.
- Evaluate all proposed provisions carefully before agreeing to them. Provisions should appear reasonable, relevant, and ones that your child will be capable of complying with.
- If the provisions do not meet these criteria, ask that they be modified.
- If you cannot reach agreement on the terms, consider seeking legal assistance.

CHECKLIST OF STEPS TO TAKE IN RESPONSE TO A POTENTIAL REVOCATION OF A GRANT OF CONDITIONAL LIBERTY

Before the hearing on the revocation of a grant of conditional liberty

- Review any paperwork regarding the revocation hearing that DYS provides.
- Seek a copy of the DYS caseworker's Conditional Liberty Violation Report (CLVR) investigating the allegations of a violation. Any violation that the caseworker wants to use as evidence of a violation of the grant must be included in the report. As soon as possible after your child's return to custody, the caseworker must give him a copy of the Conditional Liberty Violation Report (CLVR). DYS must also give a copy of the CLVR to the parent/legal guardian and your child's lawyer, if any.
- Ask for any documents DYS is using to support the allegations in the CLVR.
- The DYS caseworker forwards the CLVR to the DYS District Manager. The District Manager reviews the CLVR and supporting documentation to determine if probable cause exists to believe that violation(s) occurred. If yes, the District Manager records a finding of probable cause to pursue the revocation of a the grant of conditional liberty on a Probable Cause Determination Form. Seek a copy of this form.
- The DYS caseworker must meet with your child to explain the allegations, the revocation hearing process, and your child's right to present evidence in defense at the hearing. Furthermore, DYS must give your child a copy of a form providing notice of the right to a hearing. Ask for and review a copy of this form.
- If DYS chooses to pursue a revocation of a grant of conditional liberty and the re-imposition of the original sentence, DYS must provide the opportunity for a contested hearing within 7 days of taking the youth back into physical custody.
- Consider whether you need to reschedule the hearing for good

cause. Good cause may include, for example, verified illness/hospitalization, failure to receive sufficient or timely notice, or a lawyer schedule conflict.

- A youth has a right to bring a lawyer to the revocation hearing. Indigent youths are offered a lawyer to represent the youth for free at the hearing.
- If your child doesn't have a lawyer, he should ask for one in writing before the hearing.

At the hearing on a revocation of a grant of conditional liberty

- The youth should attend the hearing.
- The DYS caseworker has the burden of persuading the hearing officer by a preponderance of the evidence that the violations occurred. Be prepared to contest this claim.
- At the hearing, the caseworker presents on behalf of DYS the evidence of the violation(s) and submits supporting documentation to the hearing officer. The caseworker must provide a copy of the supporting documentation to the youth.
- A youth has a right to bring a lawyer to the revocation hearing. Each indigent youth is offered a lawyer to represent him for free at the hearing. The lawyers that represent youths at these hearings are overseen by the Youth Advocacy Department (YAD) of the Committee for Public Counsel Services. The YAD Revocation Advocacy Coordinator can be reached at (617) 989-8128. If your child doesn't have a lawyer, ask for one again at the hearing.
- A parent or legal guardian may and should attend to support the youth. Further, the parent or legal guardian may assist the youth present his case if no lawyer is available to represent the youth.
- Invite individuals to testify who can give relevant and persuasive information to the hearing officer.
- The youth is entitled to confront and cross-examine witnesses, examine and dispute evidence, produce evidence and make an opening and closing statement. Be prepared to do so.
- If an individual who has given evidence against the youth is not

at the hearing, the youth may ask the hearing officer – at the beginning of the hearing -- that either that individual appear at the hearing so that the youth can question the individual or that the information not be admitted into evidence.

- In addition to contesting the violation, your child could put the violation into context.
- Your child could suggest alternatives to lock up, such as a change in school placement, a change in medication, or the introduction of counseling.
- Youth who suffer from a disability could argue, if appropriate, that the alleged violation was due to the disability and that DYS should make a reasonable accommodation and not pursue the revocation in this instance.
- An individual who wants to support the youth but is unable to attend the hearing may submit a written statement to the Hearing Officer at DYS's Central Office in Boston.
- At the end of the hearing, ask when the decision will issue. The Hearing Officer ordinarily will make findings, although the Hearing Officer may delay making findings for up to 3 business days. However, if necessary, the Hearing Officer may take a case under advisement, and thereby delay making a decision for any reasonable length of time.
- All findings must be in writing and DYS must provide a copy to the youth and to any parent, legal guardian or lawyer who attends the hearing. If you do not receive findings, request them from DYS. A parent or legal guardian who does not attend the hearing still has a right to request and receive a copy of the findings.
- If the Hearing Officer finds that the allegations of violations are unfounded, the youth must be released.
- If the Hearing Officer finds that a preponderance of the evidence shows a violation of the agreement, the Hearing Officer must determine the appropriate sanction. The Hearing Officer must consider the prior revocation history and the caseworker's recommendation.
- If the Hearing Officer orders revocation, he may do any of the following: release the youth with new conditions on the grant;

confine the youth in a facility for up to 120 days; send the case to the DYS Regional Review Team to consider a confinement of up to 6 months; take the case under advisement; await action from the court; or continue the hearing.

- The Hearing Officer also may consider other reasonable alternatives that are in the youth's best interest. Be sure to present those alternatives during the hearing.
- If a case is sent to the DYS Regional Review Team, taken under advisement, postponed, or continued, it must be disposed of within 21 calendar days.

Appeal of a hearing officer's decision on a revocation of a grant of conditional liberty

- A youth has the right to appeal the hearing officer's decision to the Commissioner or the Commissioner's designee. The DYS caseworker may assist the youth in writing the appeal. The youth, family, or lawyer also may write the appeal.
- DYS policy states that all appeals must be submitted within 7 days of receiving the hearing officer's decision.
- The Commissioner or designee must respond in writing within 14 calendar days.
- One may appeal for any of the following reasons:
 - the decision was beyond the hearing officer's authority;
 - the decision was based on an error of law;
 - the decision was based upon illegal procedure;
 - the decision was not supported by the evidence;
 - the decision was arbitrary or capricious (that is, the decision was not based upon reasonable grounds or adequate consideration of the facts).
- There is no hearing on an appeal.
- The decision on an appeal is final, and there is no process available after the appeal decision.

