

Philadelphia DAO Introduction to Juvenile Policies



Effective Date: January & July 2019

Rationale for Juvenile Policies

The juvenile justice system is failing our most vulnerable children. The policies set forth here seek to decrease the number of children sent to juvenile placement and limit the number of youth on supervision. By almost every metric, juvenile crime is down across the country and in Pennsylvania.ⁱ And yet, children who have been labeled delinquent for relatively minor offenses are often trapped in a system that fails to offer them the help they need, and then sends them away from their homes when they fail. It is time to shrink the footprint of the juvenile justice system.

The vast majority of children in the juvenile system have not committed serious violent crimes—those children are charged and (at least at first) prosecuted in adult court. The children that these policies seek to address are those who have committed misdemeanor or lesser felony offenses, and who are sent to placement or supervised for inordinate lengths of time for behavioral problems that do not require intervention from the juvenile justice system.

The statistics bear out this alarming truth: 72% of the children we send to juvenile placement are sent because they are not complying with their probation—not because they have committed another crime.ⁱⁱ Children come into the delinquent system because they have committed a delinquent act. They stay in the system, often for years, and are sent away from their homes for failing to go to school, failing to make their curfew and using marijuana. By placing children in facilities to address these behavioral problems, we have created a cure that is worse than the disease: research suggests that sending youth to placement not only fails to reduce recidivism but may actually increase the likelihood that youth will recidivate.ⁱⁱⁱ

Philadelphia County has the highest rate of juvenile placement of any jurisdiction in the state: our city accounts for a little more than 12% of the Pennsylvania population, but 28.3% of the children in placement live in Philadelphia. Our city sends 2.5 times the number of children to out-of-home placement as Allegheny County (the next most populated county) and five times as many as Delaware County (the third most populated county).^{iv}

The purpose of the juvenile justice system is to provide children who have been adjudicated delinquent with “supervision, care and rehabilitation . . . [and] to enable children to become responsible and productive members of the community.”^v Our system has strayed from this goal. Instead of caring for and educating our most vulnerable youth, the system punishes them, refusing to let go of them even when they pose no threat, even as it makes the circumstances of their lives worse.^{vi} In the latest study, conducted in 2013, only 36% of Philadelphia children who passed through the juvenile justice system graduated from high

school.^{vii} We are sending children to facilities of variable quality all over the state (and sometimes as far away as Tennessee and Virginia), where their educational needs often go unmet, at an alarming cost to the taxpayer. A child in public school in Philadelphia costs the government \$14,627 per year.^{viii} The average cost of juvenile placement per year in Pennsylvania is \$161,695 and the cost of secure confinement is as much as \$241,265.^{ix}

We cannot ignore the disparate impact that our policies are having on children of color in our communities: 73% of all children adjudicated delinquent in Philadelphia are African American and only 6% are Caucasian.^x 71.4% of all the children held in secure detention from Philadelphia are African American, while 5.6% are Caucasian and nearly 18% are Hispanic.^{xi} In Pennsylvania as a whole, African Americans make up 14% of the population, but they account for 48.2% of delinquent dispositions and nearly 38% of placements.^{xii}

Juvenile placements vary enormously in quality. Some are dangerous. We were reminded of this in the fall of 2016, when a 17-year-old housed at Wordsworth in West Philadelphia was killed when he was choked in an altercation with staff, and then again in August when a child at Glen Mills Schools, a placement for delinquent youth, was badly beaten by staff.^{xiii}

For too long the system has demanded that children be held accountable for their behavior, while the adults in positions of power fail to make sure that the programs we send them to are working for their benefit. It has become increasingly clear we do a disservice to children who are not dangerous to the community when we send them far away from their homes.

Other jurisdictions, including New York, have implemented Close to Home policies, which allow more kids to stay in their homes or, if they must be removed for community safety, to stay in the same school district or neighborhood. The results are impressive: high school graduation rates improve, rates of recidivism decrease and participant satisfaction rises.^{xiv} We encourage our system partners to embrace this model.

Children who are placed on juvenile probation are also being over-supervised. Even though evidence suggests that the number of conditions a child must abide by should be limited, children in Philadelphia are often compelled to comply with five, or six, or sometimes more conditions to be released from supervision.^{xv} The DAO is therefore committed never to ask for more than three conditions for any child placed on supervision.

Children who must be charged as adults are not addressed in these policies.^{xvi} This category of children stand accused of committing serious felonies where a deadly weapon was used. While these children must at first be charged in adult court, this office has the discretion to send many of these cases back to the juvenile system. In the last nine months, we have cut the number of children being tried in adult court by _____, and reduced the number of children being held in adult jail in half. We have done this carefully and thoughtfully, with an eye toward the safety of the community and the best interests of the child. We know now—and United States Supreme Court precedent acknowledges—that children cannot be held accountable in the same way that adults are because their brains have not fully developed.^{xvii} It is unjust and unnecessary to punish children for their actions in the same way we would adults. This office will continue to transfer children accused of serious crimes back to the juvenile system where it is appropriate and does not compromise public safety.

In every unit, the DAO is striving to create fairer, more thoughtful and more effective prosecutors. Juvenile ADAs are critical to this mission. We hope that these policies, and the trainings that will accompany them, can reshape not just this office, but the juvenile justice system in Philadelphia and beyond.

ⁱ See OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, UNITED STATES DEPARTMENT OF JUSTICE, STATISTICAL BRIEFING BOOK, *available at* <https://www.ojjdp.gov/ojstatbb/crime/JAR.asp>; and https://www.ojjdp.gov/ojstatbb/ezaucr/asp/ucr_display.asp

ⁱⁱ See JUVENILE COURTS' JUDGES COMM'N, 2016 PENNSYLVANIA JUVENILE COURT DISPOSITIONS 19 (2016), *available at* [https://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20\(PDF\).pdf](https://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20(PDF).pdf).

ⁱⁱⁱ See Jake Horowitz & Arna Carlock, *Nearly a Quarter of Confined Juveniles Nationwide Held for Noncriminal Infractions*, PEW TRUSTS (Feb. 14, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/14/nearly-a-quarter-of-confined-juveniles-nationwide-held-for-noncriminal-infractions>.

^{iv} See JUVENILE COURTS' JUDGES COMM'N, 2016 PENNSYLVANIA JUVENILE COURT DISPOSITIONS 19 (2016), *available at* [https://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20\(PDF\).pdf](https://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20(PDF).pdf).

^v See 42 Pa.C.S. § 6301(b)(2).

^{vi} Philadelphia youth with a history of contact with either the delinquent or the dependent systems score substantially lower on standardized tests, have lower job promotion rates, higher rates of absenteeism and special education eligibility, and accumulate fewer educational credits compared to their peers who have no contact with the system. See Maura McInerney, Esq., Legal Director, Education Law Center, *Testimony Before Philadelphia City Council: Education Interrupted: How We Are Failing Our Children in Residential Placements* (May 17, 2018), *available at* <https://www.elc-pa.org/wp-content/uploads/2018/05/ELC-Testimony-Before-City-Council-Re-Residential-Placements-May-17-2018.pdf>; SOPHIA HWAN ET AL., CHOP POLICYLAB, *SUPPORTING THE NEEDS OF STUDENTS INVOLVED IN THE FOSTER CARE AND JUVENILE JUSTICE SYSTEMS 5* (2014), *available at* http://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab_Report_Supporting_Students_Involved_with_Child_Welfare_June_2014.pdf.

^{vii} JULIA RANSOM ET AL., PROJECT UTURN, A PROMISE WORTH KEEPING: ADVANCING THE HIGH SCHOOL GRADUATION RATE IN PHILADELPHIA 12 (n.d.), *available at* <http://www.projectuturn.net/docs/PromiseWorthKeeping.pdf>; *see also* ARLEY STYER & EDUCATION LAW CENTER, STONELEIGH FOUNDATION, MOVING THE DIAL: A REPORT ON EDUCATION EXPERIENCES OF CHILDREN IN PENNSYLVANIA RESIDENTIAL TREATMENT FACILITIES 2 (2011), *available at*: https://www.elc-pa.org/wp-content/uploads/2013/08/access_Moving_the_Dial_Styer.pdf.

^{viii} *See* the National Center for Education Statistics, Philadelphia District Directory Information, (last visited Sept. 13, 2018), https://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=2&ID2=4218990.

^{ix} SELA COWGER ET AL., JUSTICE LAB AND YOUTH SENTENCING & REENTRY PROJECT, DOUBLE PUNISHMENT: PHILADELPHIA'S PRACTICE OF CHARGING PARENTS FOR THEIR CHILD'S INCARCERATION COSTS 24-25 (2016), *available at* <https://www2.law.temple.edu/csj/cms/wp-content/uploads/2016/11/Double-Punishment.pdf>.

^x *See* JUVENILE COURTS' JUDGES COMM'N, 2016 PENNSYLVANIA JUVENILE COURT DISPOSITIONS 93 (2016), *available at* [https://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20\(PDF\).pdf](https://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20(PDF).pdf).

^{xi} *Id.* at 95.

^{xii} *See* JUVENILE COURTS' JUDGES COMM'N, 2016 PENNSYLVANIA JUVENILE COURT DISPOSITIONS 28 (2016), *available at* [http://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20\(PDF\).pdf](http://www.jcjc.pa.gov/Research-Statistics/Disposition%20Reports/2016%20Pennsylvania%20Juvenile%20Court%20Disposition%20Report%20(PDF).pdf).

^{xiii} *See* Nancy Phillips & Chris Palmer, Death of Teen at Wordsworth in Fight Over iPod Ruled Homicide, THE INQUIRER (Feb. 10, 2017), <http://www2.philly.com/philly/news/Death-of-teen-at-Wordsworth-was-homicide-Medical-Examiner-says.html>; Lisa Gartner, "I Can't Breathe": Probe Underway at Glen Mills After Staffer Attacks Boy, THE INQUIRER (Aug. 31, 2018), <http://www2.philly.com/philly/news/philadelphia-glen-mills-schools-juvenile-abuse-attack-20180831.html>. 40% of the youth held at Glen Mills are sent there from Philadelphia County.

^{xiv} Teresa Wiltz, Keeping Youth Close to Home Reduces Juvenile Arrests, PEW TRUSTS (Mar. 16, 2018), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/03/16/keeping-youth-close-to-home-reduces-juvenile-arrests>.

^{xv} Advocates for children, as well as the Philadelphia Juvenile Probation Department agree that more than three conditions can be counterproductive. Pennsylvania's Juvenile Justice System Enhancement Strategy Report explains that a child should be assessed by measuring forty-two risk and need factors so that the assessor can identify the "top three criminogenic needs" of the

child and a Probation Officer can create a condition to meet each need. JUVENILE COURT JUDGES' COMM'N ET AL., PENNSYLVANIA'S JUVENILE JUSTICE SYSTEM ENHANCEMENT STRATEGY 20-21, 33 (2012), *available at* <https://www.pccd.pa.gov/Juvenile-Justice/Documents/JJSES%20Monograph%20Final%20version%20press%20ready%2005%2025%2012.pdf>. This is a best practice recognized in our system and beyond. See JUVENILE COURT JUDGES' COMM'N, PENNSYLVANIA JUVENILE DELINQUENCY BENCHBOOK § 9-7 (2008), *available at* <https://www.jcjc.pa.gov/Publications/Documents/Juvenile%20Delinquency%20Benchbook/Juvenile%20Delinquency%20Benchbook%20-%20Compilation.pdf> (recommending a limited and specific set of conditions for juveniles on probation).

^{xvi} See 42 Pa.C.S. § 6302(2).

^{xvii} See *Miller v. Alabama*, 567 U.S. 460, 472-73 (2012)

Policy #1
Juvenile Pre-Adjudicatory Offer Policy With Annotations
January 10, 2019

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. An ADA should make an offer for a deferred adjudication in most cases.^{xviii} In the following cases, a deferred adjudication may not be appropriate:
 - a. Where the youth has a prior adjudication of delinquency;
 - b. Where the youth is charged with possessing a gun;
 - c. Where the youth is charged with an aggravated assault and has intentionally inflicted significant or serious bodily injury on the victim;
 - d. Where the youth is charged with rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault;
 - e. Where the youth is charged with a felony of the first degree where a weapon was used; or
 - f. Where the youth is charged with a delinquent act that involves the invasion of the home of another, and a weapon was used in the commission of the act.
2. In cases where a Reporting Consent Decree (“RCD”) is inappropriate, an offer that includes the DAO’s consent to expungement six months after the completion of probation should be considered.
3. All pretrial offers must be made available to defense counsel 48 hours before the pretrial listing of the case, so that defense counsel has the opportunity to review the discovery and discuss the offer with the child prior to the pretrial listing. Victims who have suffered a physical injury must also be notified of the offer prior to disposition and should be given an opportunity to address the Court, should they wish to do so.
4. Pre-adjudicatory hearing offers should remain open until forty-eight hours before the adjudicatory hearing listing, unless there is a significant change in the circumstances. An ADA may make the same offer on the day of the adjudicatory hearing if he or she believes it is appropriate and has discussed it with a supervisor.

ⁱ Where a youth has been found guilty of a delinquent act, the Court must hold a disposition hearing at which the Court will decide whether the child is “in need of treatment, rehabilitation or supervision.” 42 Pa.C.S. § 6341(b). If the Court makes this finding, a child is adjudicated delinquent. Where a child has been found guilty of a delinquent act, the Court may choose to delay such a finding, placing the child on “deferred” status to see if the child is able to take advantage of available services so that he or she need not be adjudicated delinquent. See JUVENILE COURT JUDGES’ COMM’N, PENNSYLVANIA JUVENILE DELINQUENCY BENCHBOOK § 8-6 n.35 (2008), *available at* <https://www.jcjc.pa.gov/Publications/Documents/Juvenile%20Delinquency%20Benchbook/Juvenile%20Delinquency%20Benchbook%20-%20Compilation.pdf>. The ADA may recommend deferring adjudication, to allow the child the opportunity to cooperate with Juvenile Probation, thereby avoiding an adjudication of delinquency.

Policy #2

Juvenile Reporting Consent Decree (“RCD”) Policy^{xix} With Annotations

January 17, 2019

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. Reporting Consent Decrees (“RCDs”), a statutorily recognized form of juvenile diversion, shall be extended on cases where a misdemeanor is the lead charge and the child has no prior adjudications of delinquency or open cases. This does not apply to cases where the child is charged with possession of a gun, a serious sexual offense, or has a history of serious violence.^{xx} RCDs should also be offered to defendants charged with felonies, where appropriate.
2. RCDs should contain no more than three conditions. If the ADA offering the RCD thinks it appropriate, he or she may allow the Juvenile Probation Officer to set the conditions after the child has been evaluated using the Youth Level of Service/Case Management Inventory tool (“YLS”), which uses forty-two factors to identify the top three criminogenic needs of the youth.^{xxi} This test is often not completed at the time the offer is made, but may be the best guide as to the child’s needs. However, regardless of the results of the YLS, only three conditions can be placed on the child.
3. RCDs should not require drug testing unless some evidence exists that the child may be using illegal drugs. If testing is appropriate, drug testing should be one of no more than three conditions.^{xxii}
4. An ADA may not recommend that an RCD be revoked because a child is using marijuana. A child who uses marijuana may be referred to treatment services if the problem is repeated or the child’s guardian asks for treatment.^{xxiii}
5. Children on an RCD shall not be required to complete more than twenty-five hours of community service without approval of a supervisor.
6. Victims must be notified when the DAO offers a child an RCD.

ⁱ A Reporting Consent Decree, like the Accelerated Rehabilitative Disposition (“ARD”) program, is a statutorily recognized form of diversion. The Juvenile Act explains that “[a]t any time after the filing of a [juvenile] delinquency petition and before the entry of an adjudicatory order, the court may, on motion of the district attorney or of counsel for the child, suspend the proceedings, and continue the child under supervision in his own home, under terms and conditions negotiated with the probation services and agreed to by all parties” 42 Pa.C.S. § 6340(a). This order is known as a consent decree. In Philadelphia, the DAO may offer a child an RCD which will place him or her under court supervision for a minimum of six months and no more than a year. If he or she completes the terms of his or her supervision, the petition against him or her will be withdrawn, and may be expunged. See *id.* at § 6340(c), (e).

ⁱⁱ The statute places no limits on the types of cases that may be considered appropriate for an RCD and the DAO recognizes that even if a child has committed a serious delinquent act, he or she may not be in need of significant supervision by the juvenile justice system. See *generally id.*

ⁱⁱⁱ Advocates for children, as well as the Philadelphia Juvenile Probation Department agree that more than three conditions can be counterproductive. Pennsylvania’s Juvenile Justice System Enhancement Strategy Report explains that a child should be assessed by measuring forty-two risk and need factors so that the assessor can identify the “top three criminogenic needs” of the child and a Probation Officer can create a condition to meet each need. JUVENILE COURT JUDGES’ COMM’N ET AL., PENNSYLVANIA’S JUVENILE JUSTICE SYSTEM ENHANCEMENT STRATEGY 20-21, 33 (2012), *available at* <https://www.pccd.pa.gov/Juvenile-Justice/Documents/JJSES%20Monograph%20Final%20version%20press%20ready%2005%2025%2012.pdf>. This is a best practice recognized in our system and beyond. See JUVENILE COURT JUDGES’ COMM’N, PENNSYLVANIA JUVENILE DELINQUENCY BENCHBOOK § 9-7 (2008), *available at* <https://www.jcjc.pa.gov/Publications/Documents/Juvenile%20Delinquency%20Benchbook/Juvenile%20Delinquency%20Benchbook%20-%20Compilation.pdf> (recommending a limited and specific set of conditions for juveniles on probation).

^{iv} At the present time, the Juvenile Probation Department drug tests all youth when they begin their supervision on an RCD. ADAs should not recommend that a child’s RCD be terminated for the use of marijuana. Instead, a positive drug screen for marijuana is but one piece of information about a child that should be used in assessing the proper services a child may need.

^v Recent studies suggest that the impact of marijuana on the adolescent brain is not as significant as experts previously believed, although further study is necessary. While marijuana certainly produces short term cognitive impairment, the long-term impact that the drug has on the developing brain is less certain. See J. Cobb Scott et al., *Association of Cannabis With Cognitive Functioning in Adolescents and Young Adults: A Systematic Review of Meta-Analysis*, 75 JAMA PSYCHIATRY 585, Conclusions and Relevance (2018) (“Associations between cannabis use and cognitive functioning in cross-sectional studies of adolescents and young adults are small and may be of questionable clinical importance for most individuals. Furthermore, abstinence of longer than 72 hours diminishes cognitive deficits associated with cannabis use.”); Claudia Wallis, *What Pot Really Does to the Teen Brain*, SCIENTIFIC AMERICAN (Dec. 1, 2017), <https://www.scientificamerican.com/article/what-pot-really-does-to-the-teen-brain>.

Other recent studies suggest that people who use marijuana as adolescents, are not more prone to “cognitive decline” in adulthood. In other words, youth who consume marijuana are not necessarily permanently damaging their future mental capacity as we once believed. Brenden Tervo-Clemens et al., *Adolescent Cannabis Use and Brain Systems Supporting Adult Working Memory Encoding, Maintenance, and Retrieval* 169 NEUROIMAGE 496, 505 (2018). However, it is undisputed that marijuana has a detrimental impact on a young person’s concentration and cognition in the short term.

Lastly, recent studies suggest that ending the sanctions imposed for the use of marijuana is unlikely to increase its use. Christopher Ingraham, *Following Marijuana Legalization, Teen Drug Use is Down in Colorado*, WASHINGTON POST (Dec. 11, 2017), available at https://www.washingtonpost.com/news/wonk/wp/2017/12/11/following-marijuana-legalization-teen-drug-use-is-down-in-colorado/?utm_term=.1eaba6acf5d6 (recounting federal survey data that shows a statistically significant drop in teen marijuana usage in Colorado a year after its legalization (citing SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN., NATIONAL SURVEY DATA ON DRUG USE AND HEALTH: COMPARISON OF 2014-2015 AND 2015-2016 POPULATION PERCENTAGES (2016), available at <https://www.samhsa.gov/data/sites/default/files/NSDUHsaeShortTermCHG2016/NSDUHsaeShortTermCHG2016.htm>)).

Policy # 3
Juvenile Detention Policy With Annotations
January 17, 2019

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. An ADA should recommend an alternative to detention at the time of any new arrest with the following exceptions:^{xxiv}
 - i. The child is an immediate danger to his or her community or family;
 - ii. The parent refuses to take the child home^{xxv};
 - iii. The child is charged with possessing a gun; or
 - iv. The child has a history of violence and is accused of a new violent offense.^{xxvi}
2. At bench warrant hearings and violation of probation hearings, alternatives to a child being held in detention at the Philadelphia Juvenile Justice Services Center (“JJSC”) must be considered, including the following:
 - a. An alternative relative that a juvenile might stay with;
 - b. In Home Detention (“IHD”);^{xxvii}
 - c. Intensive Supervision Program (“ISP”);^{xxviii}
 - d. GPS (where a child would otherwise be held);^{xxix} and
 - e. Evening Reporting Center coupled with GPS;^{xxx}
3. An ADA may recommend that a child be held if he or she has gone absent without leave from an out-of-home placement.^{xxxi}
4. Where a Hearing Officer^{xxxii} has denied a joint recommendation from the ADA and defense counsel that a child be released, an appeal should be taken to the on-call judge, after consultation with a supervisor. At the hearing before the on-call judge, the grounds for release should be stated for the record. An ADA may include the cost of detention in his or her argument.
5. An ADA may not appeal a Hearing Officer’s decision to release a child without the approval of a supervisor.
6. Victims must be informed as to whether or not the child has been detained or released.

ⁱ The cost of holding a child at the Philadelphia Juvenile Justice Services Center is \$661 per child, per night. See SELA COWGER ET AL., SHELLER CTR. FOR SOC. JUSTICE, DOUBLE PUNISHMENT: PHILADELPHIA'S PRACTICE OF CHARGING PARENTS FOR THEIR CHILD'S INCARCERATION COSTS 24-25 (2016), *available at* <https://www2.law.temple.edu/csj/cms/wp-content/uploads/2016/11/Double-Punishment.pdf>.

ⁱⁱ If a child's parents refuse to take a child home and the child is otherwise appropriate for release, an ADA should not object to releasing the child to another appropriate caregiver.

ⁱⁱⁱ When a child is arrested, the Probation Department evaluates the child using a risk assessment tool called the Detention Risk Assessment Instrument ("DRAI"). Only those children who score above a fifteen receive a hearing before a Hearing Officer; those who score below that number are automatically released. While the DAO believes that the DRAI is useful in certain respects, it is the position of the DAO that the DRAI over-rates certain factors in assessing whether a child is appropriate for release.

^{iv} In Home Detention is a court-ordered supervision program through which youth participate in community-based activities weekly under the supervision of a youth worker. Activities are tailored to the individual child, but include workshops, drug and alcohol awareness, sexual health career development, financial literacy, and sports and art training. IHD costs between \$36 and \$40 per child, per day.

^v Intensive In-Home Supervision Program includes one to three daily contacts between the youth and the service provider, therapeutic and instructional workshops, and one-on-one mentoring.

^{vi} The Juvenile Probation Department owns 250 GPS ankle monitors, which are attached to juveniles in the delinquent system, often as a condition of their release. While between 100 and 120 juveniles are held at the JJSC, nearly all available GPS monitors are in use at any given time. Often juveniles are kept on GPS for months at a time without any review of its necessity. Devices must be re-charged for more than an hour each day at an outlet, at which time the juvenile must stand or sit next to an outlet. When monitors are damaged, the juveniles are ordered to pay for the damage.

^{vii} An Evening Reporting Center is available to some children prior to their adjudicatory hearings. These centers provide a place for children to receive academic support as well as opportunities to engage in art and music programming. See Geo, *Evening Reporting Centers: A Second Chance Through Music*, JUMP (Aug. 8, 2016), <https://jump Philly.com/2016/08/08/evening-reporting-center-a-second-chance-through-music>. Evening Reporter Centers cost approximately \$60 per child, per day.

^{viii} A juvenile out-of-home placement is a facility designed and operated for the benefit of delinquent children that provides substitute care for children who have been adjudicated delinquent and who the Court has found cannot be adequately supervised in the community. See 42 Pa.C.S. § 6302. These facilities vary significantly in location, quality of the programming available and level of security.

^{ix} A Hearing Officer (previously known as a Master) is an attorney employed by Family Court who has limited jurisdiction, conferred by the Court of Common Pleas and consented to by the parties. 42 Pa.C.S. § 6305(a), (b). Hearing Officers sit in place of judges at Detention Hearings and at other proceedings in Family Court. Both parties may appeal the decisions of the Hearing Officer to a judge of the Court of Common Pleas. *Id.* at § 6305(d).

Policy #4
Juvenile Disposition Policy With Annotations
January 24, 2019

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. Where a youth has been found guilty of a delinquent offense at an adjudicatory hearing and placed on probation, an ADA should ask the Court for the following:
 - a. The least restrictive community supervision program available;^{xxxiii}
 - b. No more than three conditions of probation;^{xxxiv}
 - c. GPS only as a last resort before placement; if GPS is necessary, it should be reviewed at least every thirty days for necessity;^{xxxv} and
 - d. At the victim's request, an ADA may ask for a stay-away order.

2. An ADA should request a deferred adjudication when a child is found guilty at an adjudicatory hearing unless any the following circumstances are present, in which case an ADA should use his or her discretion:
 - a. Where the youth has more than one deferred adjudication;
 - b. Where the youth has a prior adjudication of delinquency;
 - c. Where the youth has been found guilty of possessing a gun;
 - d. Where the youth has been found guilty of rape, sexual assault, involuntary deviant sexual assault, aggravated indecent assault, or indecent assault graded as a felony of the third degree;
 - e. Where the youth was found guilty of a felony of the first degree and a weapon was used; or
 - f. Where the youth has been found guilty of a delinquent act that involves the invasion of the home of another, and a weapon was used in the commission of the act.

3. At the time of disposition, if the Court commits a child to a residential placement an ADA should recommend:
 - a. The closest residential placement that meets the needs of the child;^{xxxvi} and
 - b. No specific length of time of placement should be requested.^{xxxvii}

4. An ADA may not recommend that a child who has only been found guilty of committing a misdemeanor offense be sent to placement at the time of disposition, except with the permission of a supervisor.

5. An ADA may not recommend that a child under the age of 14 be sent to placement except with the permission of a supervisor.^{xxxviii}
6. An ADA should not ask for random marijuana screens as a condition of probation unless there is a reason to believe the child is using a controlled substance. The purpose of drug testing is to make sure that the juvenile is receiving appropriate services in the community.
7. An ADA should consider and inquire of probation officers about the educational needs of the child being placed and the programs available at the placements under consideration. No child should be sent to a placement that cannot meet his educational needs.^{xxxix}
8. Victims must be notified as to the disposition of the case and afforded the opportunity to address the Court.

ⁱ This policy is consistent with the Pennsylvania Juvenile Act instructs the Courts to utilize “the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child” See 42 Pa.C.S. § 6301(b)(3)(i).

ⁱⁱ Advocates for juveniles, as well as the Philadelphia Juvenile Probation Department agree that more than three conditions can be counterproductive for juveniles. Pennsylvania’s Juvenile Justice System Enhancement Strategy Report explains that a juvenile should be assessed by measuring forty-two risks and needs factors so that the assessor can identify the “top three criminogenic needs” of the juvenile and a Probation Officer can create a condition to meet each need. JUVENILE COURT JUDGES’ COMM’N ET AL., PENNSYLVANIA’S JUVENILE JUSTICE SYSTEM ENHANCEMENT STRATEGY 20-21, 33 (2012), *available at* <https://www.pccd.pa.gov/Juvenile-Justice/Documents/JJSES%20Monograph%20Final%20version%20press%20ready%2005%2025%2012.pdf>. This is a best practice recognized in our system and beyond.

ⁱⁱⁱ The Juvenile Probation Department owns 250 GPS ankle monitors, which are attached to juveniles in the delinquent system, often as a condition of their release. While between 100 and 120 juveniles are held at the Philadelphia Juvenile Justice Services Center, nearly all available GPS monitors are in use at any given time. Often juveniles are kept on GPS for months at a time without any review of its necessity. Devices must be re-charged for more than an hour each day at an outlet, at which time the juvenile must stand or sit next to an outlet. When monitors are damaged, the juveniles are ordered to pay for the damage.

It is the position of the DAO, supported by early research, that these devices are over-utilized and can lead to net-widening, where more youth are subjected to court control for longer, with heightened chance of being detained for violations. See NAT'L CTR. FOR JUVENILE JUSTICE, JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT [pin cite needed] (Melissa Sickmund & Charles Puzzanchera eds. 2014). While GPS monitoring can be an effective way to monitor youth who would otherwise require detention, it should not be used for children who only require a lower level of supervision.

^{iv} When children must be sent out of their homes, those who are placed in or close to their communities have an easier time reintegrating into the community after placement. A recent study of New York City's "Close to Home" Initiative, which sought to place delinquent juveniles in facilities inside or close to New York City, saw a vast reduction in out-of-home placement with a shifting of resources to community-based alternatives. The arrest rate among children, which was already falling, fell more quickly after the implementation of Close to Home, in relation of the rest of the state. Close to Home also improved educational supports available to children during placement, with more juveniles successfully reintegrating into school and passing their Regent's Exam after placement. JEFFREY A. BUTTS ET AL., RESEARCH & EVALUATION CTR., JOHN JAY COLLEGE OF CRIMINAL JUSTICE, STAYING CONNECTED: KEEPING JUSTICE-INVOLVED YOUTH "CLOSE TO HOME" IN NEW YORK CITY 5, 34, 38-40 (2014), *available* at <https://jjrec.files.wordpress.com/2015/03/c2h2015.pdf>.

^v Research shows that generally, longer placements do not lead to better outcome for children. See ED MULVEY, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE JUSTICE FACTSHEET 2 (2011), *available* at <https://www.ncjrs.gov/pdffiles1/ojjdp/230971.pdf>. One study found that children who spend longer stretches in juvenile placement may even have an increased risk of re-arrest when they return to their communities. *Id.* They are also very costly; juvenile placements in Pennsylvania cost between \$443 and \$661 per child, per day, or \$161,695 to \$241,265 annually. SELA COWGER ET AL., JUSTICE LAB AND YOUTH SENTENCING & REENTRY PROJECT, DOUBLE PUNISHMENT: PHILADELPHIA'S PRACTICE OF CHARGING PARENTS FOR THEIR CHILD'S INCARCERATION COSTS 24-25 (2016), *available* at <https://www2.law.temple.edu/cs/cms/wp-content/uploads/2016/11/Double-Punishment.pdf>.

^{vi} Research indicates that placement can have significant negative consequences for younger children. RICHARD A. MENDEL, THE ANNIE E. CASEY FOUND., JUVENILE DETENTION ALTERNATIVES INITIATIVE: PROGRESS REPORT 2014 5 (2014) *available* at <https://www.aecf.org/m/resourcedoc/aecf-2014JDAIProgressReport-2014.pdf>. These consequences include: worsening of mental health symptoms, increased risk of suicide, JUSTICE POLICY INST., THE COSTS OF CONFINEMENT: WHY GOOD JUVENILE JUSTICE POLICIES MAKE GOOD FISCAL SENSE 17-18 (2009), http://www.justicepolicy.org/images/upload/09_05_rep_costs_of_confinement_jj_pS.pdf, increased risk of delinquency due to interaction with antisocial peers, Ian Lambie & Isabel Randell, *The Impact of Incarceration on Juvenile Offenders*, 33 CLINICAL PSYCHOL.

REV. 448, 451-52 (2013), and an increased risk of victimization, including physical and sexual abuse by staff members and/or fellow residents, RICHARD A. MENDEL, THE ANNIE E. CASEY FOUND., NO PLACE FOR KIDS: THE CASE FOR REDUCING JUVENILE INCARCERATION 6-7 (2011), among others. In addition, placement in a secure juvenile justice facility in and of itself may be a traumatic experience for children. Michelle Evans-Chase, *Addressing Trauma and Psychosocial Development in Juvenile Justice-Involved Youth: A Synthesis of the Developmental Neuroscience, Juvenile Justice and Trauma Literature*, 3 LAWS 744, 747 (2014). This is particularly troublesome given that 75-93% of youth entering the juvenile justice system have previously been exposed to trauma. ERICA J. ADAMS, JUSTICE POLICY INST., HEALING INVISIBLE WOUNDS: WHY INVESTING IN TRAUMA-INFORMED CARE FOR CHILDREN MAKES SENSE 5 (July 2010), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/10-07_rep_healinginvisiblewounds_jj-ps.pdf. Parental separation may have a particularly harmful impact on children under the age of 14 because the brain is in a critical stage of development during early adolescence and may be ill-equipped to handle the stress associated with this type of transition. See e.g., Melissa Jonson-Reid & Richard P. Barth, *From Placement to Prison: The Path to Adolescent Incarceration from Child Welfare Supervised Foster or Group Care*, 22 CHILD. AND YOUTH SERVS. REV. 493, 507 (2000) (finding that youth in foster care first placed between ages 12 and 15 were more likely to be incarcerated for a serious or violent offense as adolescents). As a result, in order to minimize the harmful effects of detention on middle-school aged youth, these children should be kept with their parents and in their communities whenever possible. See MENDEL, *supra* note vi, at 14.

vii The educational needs of children sent to placement are not always being met. JULIA RANSOM ET AL., PROJECT UTURN, A PROMISE WORTH KEEPING: ADVANCING THE HIGH SCHOOL GRADUATION RATE IN PHILADELPHIA 12 (n.d.), available at <http://www.projectuturn.net/docs/PromiseWorthKeeping.pdf>; see also ARLEY STYER & EDUCATION LAW CENTER, STONELEIGH FOUNDATION, MOVING THE DIAL: A REPORT ON EDUCATION EXPERIENCES OF CHILDREN IN PENNSYLVANIA RESIDENTIAL TREATMENT FACILITIES 2 (2011), available at: https://www.elc-pa.org/wp-content/uploads/2013/08/access_Moving_the_Dial_Styer.pdf.

Policy #5
Juvenile Review Hearing Policy With Annotations
January 24, 2019

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. Residential placement should only be sought if the following community interventions have proved ineffective or impossible:^{xi}
 - a. The juvenile residing with an alternative family member;
 - b. Philadelphia Youth Advocates Program (“PYAP”);
 - c. In Home Detention (“IHD”);
 - d. Intensive Supervision Program (“ISP”);
 - e. GPS monitoring;^{xii} and
 - f. GPS-ERC.^{xiii}
2. Residential placement should not be sought for youth who have been found guilty of two or fewer misdemeanors, unless the child presents a significant, immediate danger to the community.^{xiiii}
 - a. Probation “violations” such as missing curfew, failing to attend school, and the use of marijuana should be treated with community programming.
 - b. If a child continues to violate his or her probation by missing curfew or school, or smoking marijuana after programming and services have been provided, an ADA may recommend that the Court open up a dependency petition so that the issues can be addressed in Dependency Court: incorrigibility is not an adequate justification to send a child to placement who has committed a misdemeanor offense.
3. An ADA should not recommend placement solely because a child violates curfew, even if these violations are repeated.
4. A negative school report should not be considered a violation of probation in-and-of itself. A negative school report should begin an inquiry into the young person’s educational needs.^{xlv}
5. An ADA should not argue that the continued use of marijuana constitutes a violation of probation that mandates placement. The child should only be referred to drug treatment where the use of marijuana is repeated or the child’s guardian asks for treatment.^{xlv}

6. A child should never be placed for failing to pay restitution or court fees.^{xlvi}
7. When a child has been found to be in violation of his or her probation and in need of placement, a child does not necessarily need to be held, pending placement. An ADA's recommendation as to whether or not the child should be held while the probation officer plans should be based upon a consideration of the following:
 - a. If the child poses a danger to the community;
 - b. If a significant danger is posed to the child if he remains in the community;
and
 - c. If an ADA fears that a child may run away while the probation officer plans placement. If the ADA so fears, he or she should recommend GPS and not ask that the child be taken out of the home.

ⁱ Sending a juvenile to placement is appropriate only in rare circumstances and then, the least restrictive alternative is best. The Court must allow a juvenile to remain in the community whenever possible, "separating the child from parents only when necessary for his welfare, safety or health of in the interests of public safety" 42 Pa.C.S. § 6301(b)(3).

Research shows that confining juveniles does not reduce recidivism and can actually worsen outcomes for young people. See Jake Horowitz & Arna Carlock, *Nearly a Quarter of Confined Juveniles Nationwide Held for Noncriminal Infractions*, PEW TRUSTS ([Feb. 14, 2018](https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/14/nearly-a-quarter-of-confined-juveniles-nationwide-held-for-noncriminal-infractions)), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/14/nearly-a-quarter-of-confined-juveniles-nationwide-held-for-noncriminal-infractions>. Studies in both Ohio and Illinois found that for all but the highest-risk youth, juvenile placement led to less favorable outcomes. In Illinois, juveniles sent to placement were 23% more likely to recidivate than juveniles who received services in the home. See Anna Aizer & Joseph J. Doyle, Jr., *Juvenile Incarceration, Human Capital, and Future Crime: Evidence From Randomly Assigned Judges*, 130 Q.J. ECON. 759, 761 (2015).

ⁱⁱ The Juvenile Probation Department owns 250 GPS ankle monitors, which are attached to juveniles in the delinquent system, often as a condition of their release. While between 100 and 120 juveniles are held at the Philadelphia Juvenile Justice Services Center, nearly all available GPS monitors are in use at any given time. Often juveniles are kept on GPS for months at a time without any review of their necessity. Devices must be re-charged for more than an hour each day at an outlet, at which time the juvenile must stand or sit next to an outlet. When monitors are damaged, the juveniles are ordered to pay for the damage.

It is the position of the DAO, supported by early research, that these devices are over-utilized and can lead to net-widening and net-deepening, where more youth are subjected to more court control for longer periods of time, with heightened chance of being detained for violations. See Kate Weisburd, *Monitoring Youth: The Collision of Rights and Rehabilitation*, 101 IOWA L. REV. 297, 302-03 (2015). While GPS monitoring can be an effective way to monitor children who would otherwise require detention, it should not be used for children who only require a lower level of supervision.

ⁱⁱⁱ An Evening Reporting Center is available to some children prior to their adjudicatory hearings. This center provides a place for children on GPS to receive academic support as well as opportunities to engage in art and music programming.

^{iv} Philadelphia County has the highest rate of juvenile placement of any jurisdiction in the state. It sends two and one-half times the number of children to placement as Allegheny County (the next most populated county) and five times as many as Delaware County (the third most populated county). Juvenile Court Judges' Commission Pennsylvania Juvenile Court Disposition Review, p. 19. Philadelphia accounts for 28.3% of placements statewide. JUVENILE COURTS' JUDGES COMM'N, 2016 PENNSYLVANIA JUVENILE COURT DISPOSITIONS 19 (2016).

Research has found that sending youth to placement not only fails to reduce recidivism but actually increases the likelihood that youth will recidivate. Many states (as discussed below) have taken steps toward limiting the use of placement. See Jake Horowitz & Arna Carlock, *Nearly a Quarter of Confined Juveniles Nationwide Held for Noncriminal Infractions*, PEW TRUSTS (Feb. 14, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/14/nearly-a-quarter-of-confined-juveniles-nationwide-held-for-noncriminal-infractions>.

In 2013, Georgia enacted House Bill 242, which prohibited sending youth to placement unless he or she was adjudicated delinquent for a felony offense, had been previously adjudicated for a felony, or had at least three prior adjudications for a delinquent act. H.B. 242, 152nd Gen. Assemb., Reg. Sess. (Ga. 2013), GA. CODE ANN. § 15-11-601(a)(10).

In 2014, Kentucky's Senate Bill 200 prohibited youth convicted of misdemeanors or Class D felonies from being sent to placement unless they were adjudicated for a deadly weapon offense, an offense that would classify the youth as a sex offender, or unless the youth has three or more prior delinquency adjudications or four or more prior adjudications for supervision violations. S.B. 200, 2014 Reg. Sess. (Ky. 2014), KY. REV. STAT. ANN. § 635.060(4)(a).

Utah passed House Bill 239 in 2017 which mandates that youth cannot be sent to placement for technical violations of probation (referred to in local parlance as contempt of court). The bill also mandated that youth who do not "pose a risk of harm to others" cannot

be placed in secure detention facilities. Youth adjudicated of status or delinquency offenses do not qualify. (Status offenses are offenses like habitual truancy that are prohibited by law but would not be offenses if committed by an adult.) Youth can only be placed in community placement or secure placement if they have a present felony, a present misdemeanor with more than five prior delinquency adjudications each arising from separate incidents, or have a present misdemeanor offense that involves the use of a firearm. H.B. 239, 62nd Legis., Gen. Sess. (Utah 2017), UTAH CODE ANN. § 78A-6-117(2)(d)(i).

Passed in 2015, West Virginia's Senate Bill 393 prohibits the placement of first-time status offenders and nonviolent misdemeanor offenders unless there is a belief that the youth is at risk of abuse or neglect if they continue living in their home. S.B. 393, 82nd Leg., Reg. Sess. (W. Va. 2015), W. VA. CODE ANN. § 49-4-712(a)(2).

In 2016, Kansas' Senate Bill 367 prohibited the removal of youth from their homes for technical violations of probation. S.B. 367, 86th Leg., Reg. Sess. (Kan. 2016), *codified as amended* KAN. STAT. ANN. § 38-2392(b); see also THE PEW CHARITABLE TRUSTS, KANSAS' 2016 JUVENILE JUSTICE REFORM 13 (2017), available at http://www.pewtrusts.org/-/media/assets/2017/06/pspp_kansas_2016_juvenile_justice_reform_brief.pdf?la=en&hash=82701CC0B108B9185C41100C9231357DD6B16E91.

^v Truancy is a particular problem for low-income students who are 60% more likely to be chronically absent from school. As a result of this absence, many students suffer from poor academic performance. The causes of truancy are complex: literature on adolescent development demonstrates that middle school aged youth from high-poverty areas experience substantial social pressure to participate in activities that negatively affect school attendance like taking care of family members. The continued criminalization of truancy perpetuates racial inequalities in the criminal justice system as students of color are more likely to be truant than white students. FARAH Z. AHMAD & TIFFANY MILLER, CTR. FOR AM. PROGRESS, THE HIGH COST OF TRUANCY 6-9 (2015), available at <https://cdn.americanprogress.org/wp-content/uploads/2015/07/29113012/Truancy-report4.pdf>.

^{vi} The impact of marijuana on the juvenile brain may have been previously overstated. Recent studies suggest that the impact of marijuana is temporal and wears off after seventy-two hours. See, e.g., Claudia Wallis, *What Pot Really Does to the Teen Brain*, SCIENTIFIC AMERICAN (Dec. 1, 2017), <https://www.scientificamerican.com/article/what-pot-really-does-to-the-teen-brain>.

Furthermore, recent studies suggest that ending the sanctions imposed for the use of marijuana is unlikely to increase its use. Christopher Ingraham, *Following Marijuana Legalization, Teen Drug Use is Down in Colorado*, WASHINGTON POST (Dec. 11, 2017), available at <https://www.washingtonpost.com/news/wonk/wp/2017/12/11/following->

marijuana-legalization-teen-drug-use-is-down-in-colorado/?utm_term=.1eaba6acf5d6 (recounting federal survey data that shows a statistically significant drop in teen marijuana usage in Colorado a year after its legalization (citing SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN., NATIONAL SURVEY DATA ON DRUG USE AND HEALTH: COMPARISON OF 2014-2015 AND 2015-2016 POPULATION PERCENTAGES (2016), *available at* <https://www.samhsa.gov/data/sites/default/files/NSDUHsaeShortTermCHG2016/NSDUHsaeShortTermCHG2016.htm>)).

^{vii} Court fees and restitution can keep children tied to the criminal justice system simply because they are poor. See JESSICA FEIERMAN ET AL., JUVENILE LAW CENTER, DEBTORS' PRISON FOR KIDS?: THE HIGH COST OF FINES AND FEES IN THE JUVENILE JUSTICE SYSTEM 6-8 (2016), *available at* <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison.pdf>.

Policy #6
The Use of Solitary Confinement
January, 2019

The DAO strongly opposes the use solitary confinement for all children. Solitary confinement—also known as room confinement, isolation, segregation, separation, seclusion and restricted housing—is the isolation of a child for any reason other than as a temporary response to behavior that threatens immediate harm to the youth or others. Keeping children in isolation can have long-lasting and devastating consequences on youth including trauma, psychosis, depression, anxiety and an increased likelihood of self-harm.

Isolating a child when he poses an immediate threat to himself or to others is appropriate for short periods of time, not exceeding several hours. Anything beyond this is unnecessary and causes trauma. Solitary confinement is not an appropriate form of punishment for young people.

There is no research suggesting that solitary confinement is an effective means of controlling the behavior of young people in custody, and yet isolation is not uncommon, particularly for those Philadelphia youth who are held in adult facilities. The DAO urges the Philadelphia Department of Prisons to rethink its policy on juvenile solitary confinement and train its staff in alternative methods of discipline. We also ask that our juvenile justice partners monitor the placements where we send Philadelphia children to ensure that these methods are never used on our children.

Policy #7
Juvenile Bench Warrant Policy
July, 2019

The following policies are presumptions. An ADA may depart from these presumptions if he or she has good cause to do so and has consulted with a supervisor.

1. When a juvenile fails to appear for his or her court date, an ADA should ask for a bench warrant but oppose the imposition of a “Bench Warrant Hold,” “Bench Warrant— Do Not Release” or a “Judge Only Bench Warrant.”^{xlvii} These types of bench warrants mandate that a juvenile who fails to appear in court, once apprehended, is held in custody until he or she can be scheduled to appear before the judge assigned to his case—a process that can take up to two weeks.^{xlviii} A Hearing Officer lacks the authority to release a juvenile held on one of these warrants. This delay in a substantive hearing violates the juvenile’s right to due process, pursuant to 42 Pa. CSA § 6332, which states that a juvenile has a right to a detention hearing within 72 hours of apprehension.^{xlix}
2. When a Family Court judge states that he intends to order a “Bench Warrant Hold,” a “Bench Warrant—Do Not Release” or a “Judge Only Bench Warrant,” the ADA assigned to the case should state for the record that:
 - S/he opposes such an order because this office considers it a violation of the juvenile’s due process rights and a violation of the Juvenile Act.¹
 - If the Court insists upon such an order, when the child is apprehended, s/he should see the issuing judge the following business day.
3. An ADA should oppose any standing order that commits a child to a facility upon apprehension, usually called a “Bench Warrant Hold, Do Not Release, Commit to Placement Upon Apprehension.” The circumstances of the individual juvenile should be addressed at the time of apprehension.
4. Where one of the bench warrants described above has been ordered previously and a juvenile is apprehended and appears before the Hearing Officer, the ADA should request that the child be listed before the issuing judge on the following business day.

ⁱ There is some dispute among the Hearing Officers, who sit in detention hearings every day at the Philadelphia Juvenile Justice Services Center (“PJJSC”), as to whether or not they have the authority to release a child who is being held on a “Bench Warrant—Hold.” Most will not do so.

ⁱⁱ These types of bench warrants are problematic for a number of reasons. First, they assume that every juvenile has control over his or her ability to appear in court and should be punished with spending time in custody for his or her failure to appear. This does not match the circumstances of most children, who rely on parents to bring them to Court. Second, they do not allow the Hearing Officer the flexibility to treat every child as an individual and hear the circumstances of his or her failure to appear before making a determination as to whether or not the child needs to be removed from the community for his or her appearance to be assured in the future. Lastly, the practice is fiscally irresponsible. The City spends \$661 per night to keep a child at the PJJSC. See, Pennsylvania Juvenile Courts Disposition Report, pp. 24-25. Detention should be reserved for those children who need it most.

ⁱⁱⁱ A juvenile who is apprehended on one of the bench warrants described above will be brought before the Hearing Officer within 72 hours, of apprehension, but if the juvenile has a “Bench Warrant—Do Not Release” or a “Judge Only Bench Warrant” the Hearing Officer lacks the authority to release the juvenile and will direct staff to list the juvenile in front of his or her judge at the earliest possible date.

^{iv} See, 42 Pa. CSA § 6332.
