

The Role of Juvenile Defense Counsel

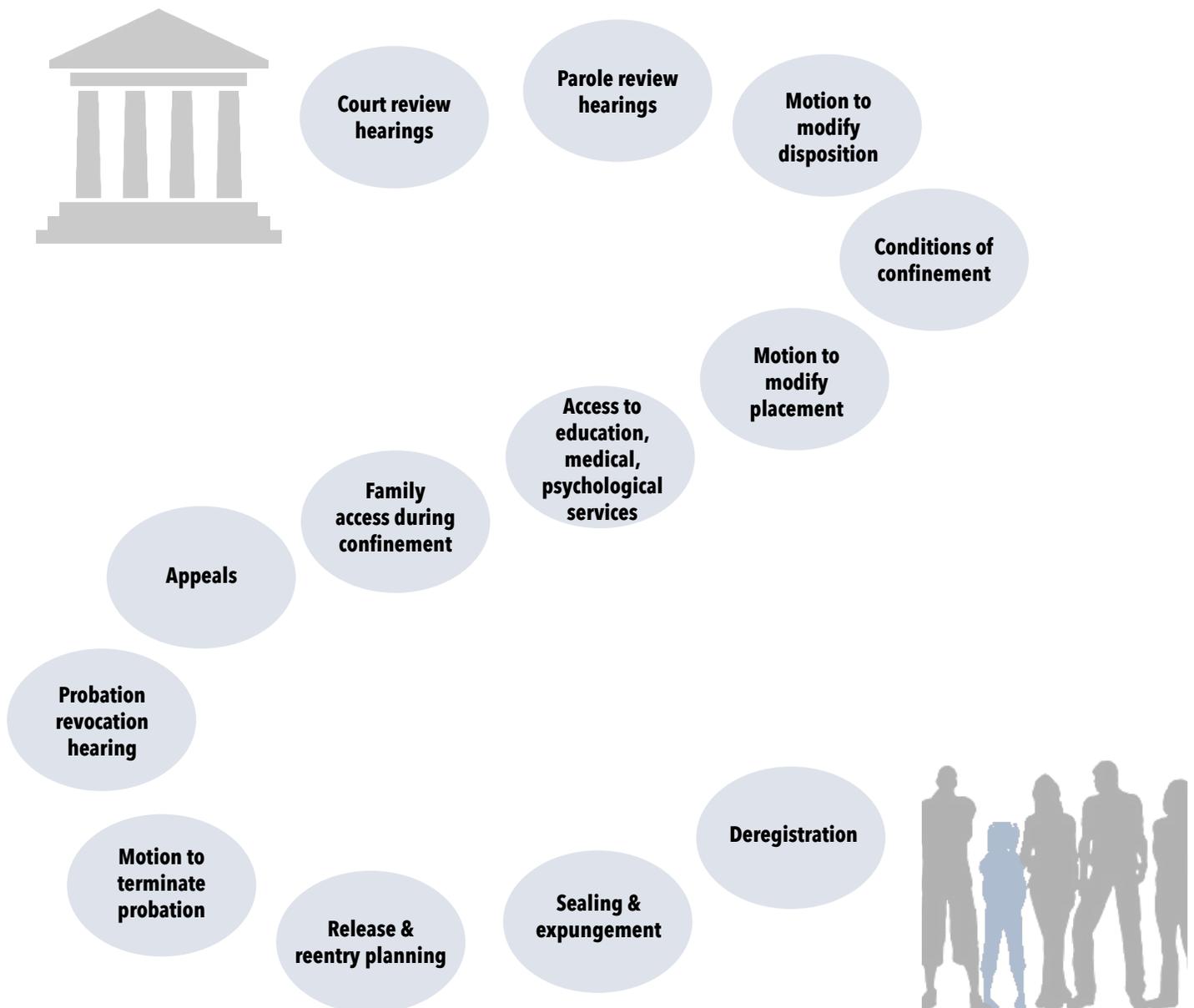
Post-Disposition

An introduction to the role and obligations of the juvenile defender after disposition in juvenile court. For further reading, see the *Role of Juvenile Defense Counsel in Delinquency Court* and the *National Juvenile Defense Standards*, available at www.njdc.info. Please contact the National Juvenile Defender Center at 202-452-0010 or inquiries@njdc.info with any questions.

Children must be counseled by a lawyer until they're no longer under court supervision.

Disposition orders—commonly understood as sentencing—move children deeper into the juvenile court system. For example, some youth might be confined to secure custody or placed on probation. During the "post-disposition" phase, defenders must represent children at all probation and parole review or modification hearings, advise clients of their legal rights, explain their case options and possible consequences, monitor conditions of confinement, and actively pursue their clients' expressed goals and interests.

POSSIBLE POST-DISPOSITION LEGAL ISSUES OF YOUTH INCLUDE:



Discuss the right to appeal

The defender must advise youth of their right to appeal, explain the appeal process, and take any necessary steps to exercise that right. **The decision of whether to appeal ultimately belongs to the client.** In counseling the client on whether to take an appeal, the defender should discuss: (1) potential grounds for appeal, the likelihood of success, and the possible consequences; (2) associated financial costs; (3) the possibility that the disposition order will be halted pending appeal; (4) whether a new attorney will be appointed to handle the appeal; and (5) the timeline and possibility that disposition requirements will be completed before the appeal is decided. Defenders should then ask whether the client wants to proceed with an appeal and, if so, take action to ensure the appeal is filed in a timely manner.

Advocate for the least restrictive placement

Defenders should advocate for youth awaiting placement to remain in the least restrictive setting. When youth pose little or no risk to public safety, defenders should ask for release to their homes and communities or propose alternatives to secure confinement. Defenders must champion children's strengths in court and bring attention to existing medical, physical, or mental health issues, particularly when the pre-placement setting may exacerbate them. If allowed, and if the child is successful in the less restrictive setting, the defender should request that the court modify the disposition order to support the child in achieving better outcomes—in his or her community rather than confinement.

Represent the client at probation and parole violation hearings

Defenders must represent children at probation and parole violation hearings with the same care, preparation, and commitment as they would in any other proceeding. **When youth are charged with a violation of probation—even a technical violation—defenders should investigate the underlying reason for the charge, build a defense, and offer the court strengths-based arguments against revocation.**

Explain sealing and expunging juvenile records

Using age-appropriate language, the defender must explain to their client and, when necessary, his or her parent or guardian: (1) the legal processes and requirements for sealing and expunging records; (2) who may gain access to the client's arrest and court records; (3) the short- and long-term consequences of public exposure of those records, such as limitations on the child's ability to attend school, gain employment, remain in public housing, or continue to live in the United States; and (4) the defender's ability to represent or assist the child in obtaining remedies and minimizing the impact of juvenile records.

Discuss and advocate for modification or early termination at disposition

In consultation with the client, the defender should request modification or early termination of disposition orders when appropriate, presenting the client's strengths and successes for the court's consideration.

Advise the client on deregistration

The defender must understand the mechanisms for removing youth from sex offender, youthful offender, and other registries, and work toward removal whenever possible. **The defender should educate youth and families about the requirements and implications of registration, as well as procedures and timing for removal.**



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