

The background features a dark blue gradient with a subtle pattern of white dots. Overlaid on this are several circular elements: a large scale on the left with numbers from 140 to 260, and several smaller circles with dashed lines and arrows, some of which are partially cut off by the edges of the frame.

POST- ADJUDICATION/DISPOSITION ADVOCACY OR... BACK TO THE FUTURE!

2019 DEFENDER CONFERENCE, WASHINGTON DEFENDER ASSOCIATION,
SUN MOUNTAIN LODGE, WA

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SCHOOL?

**WHERE WE'RE GOING WE DON'T NEED...
SCHOOL.**

WHAT YOU WILL LEARN TODAY

- 1. Why your juvenile client still needs you
- 2. Your legal & ethical duties post-adjudication & disposition
- 3. Examples of work that comes up post-disposition
- 4. Back to the Future & Where the Juvenile System is Heading (Could a child have a right to rehabilitation?)

1. TRIAL'S OVER, SENTENCING'S DONE AND YOUR JUVENILE CLIENT STILL NEEDS YOU

- “...‘Because the client in juvenile court is a minor, counsel’s representation is ***more expansive*** than that of a criminal defense lawyer for an adult. Lawyers for children must be aware of their clients’ individual and family histories, their schooling, developmental disabilities, mental and physical health, and the client’s status in their communities in order to assess their capacities to proceed and to assist in their representation. ...”

the Washington State Bar Association Performance Guidelines for Juvenile Offender Representation (dated November 16, 2017) (citing to the U.S. Department of Justice’s Statement of Interest, filed March 13, 2015 in N.P., et al. vs. The State of Georgia, et al., Superior Court of Fulton County No. 2014-CV 241025) at page 11.

2. POST-ADJUDICATION/DISPOSITION: YOUR LEGAL & ETHICAL DUTIES IN WASHINGTON STATE

- 2010 – State v. A.N.J. case
- 2012 – Juvenile Justice & Racial Disproportionality Report to WA Supreme Court
- 2016 – Juvenile Justice Act Intent Section Amendment – “Provide for the rehabilitation and reintegration of juvenile offenders.”
- 2017 WSBA Performance Guidelines for Juvenile Offender Representation - Guideline Nos. 4.4 Maintain Regular Contact with Client, 4.15 Post-Disposition Matters, and 7 Duty to Improve Juvenile Criminal Justice System

2. STATE V. A.N.J. – COURT’S VIEW & TREATMENT OF LEGAL STANDARDS

- The *A.N.J.* court, when evaluating a juvenile lawyer’s performance under the *Strickland* test, approved of seeing whether the lawyer’s performance was in conformance with legal standards governing criminal legal and juvenile practice.
 - **“However, while not binding, relevant standards are often useful to courts in evaluating things like effective assistance of counsel.”**

2. 2012 JUVENILE JUSTICE & RACIAL DISPROPORTIONALITY REPORT TO WA SUPREME CT

- Why overrepresentation of youth of color?
 - Theories include “...differential involvement in offending behavior, social and economic disparities, differential selection and processing by the court system, **differential opportunities for prevention and treatment**, and the accumulation of disparity and enduring negative impacts once involved in the juvenile justice system.” (emphasis added). 2012 Juvenile Justice & Racial Disproportionality Report to WA Supreme Court at page 4.
- What are ways to usher equitable opportunities to youth?
 - “The sources and perpetuation of disparity are complex and intertwined and require a data-driven, multi-faceted and results-based approach to reducing over-representation.” *Id.* at page 5.

2. 2016 AMENDMENT TO INTENT OF JUVENILE JUSTICE ACT – RCW 13.40.010

- “Provide for the rehabilitation and reintegration of juvenile offenders.” RCW 13.40.010 (2)(f)
- In 2016 Washington State created the Washington Statewide Reentry Council, housed under the WA State Department of Commerce.
- Intent of Council is to “to improve public safety and outcomes for individuals reentering the community.” RCW 43.380.
- Governor’s Executive Order 16-05 intends the Council is needed as “..research shows that effective juvenile reentry programs can reduce juvenile recidivism and improve long-term outcomes for these youth;”

2. 2017 PERFORMANCE GUIDELINES FOR JUVENILE OFFENDER REPRESENTATION

- 4.4 Maintain Regular Contact with Client
- 4.15 Post Disposition Matters
- 7 Duty to Improve Juvenile Criminal Justice System

2. 2017 PERFORMANCE GUIDELINES FOR JUVENILE OFFENDER REPRESENTATION - CONTINUED

- 4.4 Maintain Regular Contact with Client - Counsel ***shall*** maintain regular contact with the client. Because of the unique characteristics of youth, the attorney should seek out the client rather than expect the client to initiate communication. If a youth is in custody, counsel shall visit on a regular basis. If a client is out of custody, counsel shall arrange phone contacts and face-to-face meetings as appropriate before future court hearings. Regardless of the client's custodial status, counsel shall provide the client with a phone number at which counsel can be reached.
- Counsel shall promptly respond to telephone calls and other types of communications from the client, ideally within one business day. ***At every stage of the proceeding,*** counsel shall work to provide the client with complete information concerning all aspects of the case. (emphasis added).

2. 2017 PERFORMANCE GUIDELINES FOR JUVENILE OFFENDER REPRESENTATION - CONTINUED

- 4.15 Post-Disposition Matters – the Guidelines covers your obligation regarding appeal post-trial (Note – juveniles cannot be assessed for the costs of an appeal), your obligation to be available to answer questions of appellate attorney, clarify scope of you role post-disposition, address any post-disposition challenges, represent the juvenile at post-disposition hearings such as modification and restitution hearings, and be familiar and advise client about how to seal their juvenile adjudication/records.

2. 2017 PERFORMANCE GUIDELINES FOR JUVENILE OFFENDER REPRESENTATION - CONTINUED

- 7 Duty to Improve Juvenile Criminal Justice System - 7.1 Role of Counsel in Systemic Issues
- (a) Public defense counsel who have a significant juvenile court practice are in a unique position to identify and challenge any harmful or unlawful conditions and systemic issues adversely affecting both their clients and other juveniles, particularly, but not limited to, issues involving the right to counsel, the right to effective assistance of counsel, the unlawful shackling of juveniles in court, and harmful or unlawful conditions of confinement

3. EXAMPLES OF POST-ADJUDICATION & DISPO WORK

- Preserve Youth's Appellate Rights after Adjudication (or Disposition if applicable)
- Sealing Juvenile Adjudications & Records
- Restitution/LFOs
- Petition for Relief from S.O. Registry
- Counsel on Post-Adjudication/Disposition 5th Amendment issues
- Maintain contact with youth at JRA (maybe?)
- Assist with connecting to TeamChild JRA attorney for JRA incarceration issues
- Assist with connecting to Contract JRA attorney for youth facing JRA parole violations
- Be available to help client with holistic/basic need issues (dependency, housing, education, mental health, job training)

THE CONVERSIONS AREN'T ADDING UP



WE HAVE TO GO BACK

BACK TO THE FUTURE & WHERE IS THE JJ SYSTEM HEADING?COULD THERE BE A RIGHT TO REHABILITATION?

- THE FUTURE ISMORE ACCESS TO THERAPEUTIC SERVICES
IN THE COMMUNITY AND IN JRA
- THE FUTURE IS....MORE PARENT & COMMUNITY ENGAGEMENT TO CARE FOR
JUVENILES
- THE FUTURE IS....WHATEVER THE COMMUNITY & ITS ALLIES DREAM FOR
OUR KIDS