



Juvenile Justice in Time of Crisis

Trauma-Responsive Practices for Children, Families and Elders

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Issue Brief 3 of 4

The purpose of this brief is to help courts manage delinquency cases in a timely and trauma-responsive manner during and after the pandemic.

Stressors & Vulnerabilities Occasioned by the Pandemic

Research has repeatedly shown that young people who come to the attention of the justice system have been exposed to trauma. The circumstances caused by the pandemic may exacerbate their trauma. Many young people have lost access to previously successful coping mechanisms, like supportive relationships or structured pro-social activities. They may be isolated from social connections, feel anxious, and may be dealing with a family member losing employment or becoming ill. The more time youth wait for a hearing, the longer they are without connection to supportive and rehabilitative services.

The [National Traumatic Stress Network's COVID-19 page](#) is a good resource for information on pandemic-related trauma. They have issued a series of briefs for juvenile justice system professionals on working together, supporting families, and staying safe during COVID-19.

Caseload Implications Occasioned by the Pandemic

Many courts have a backlog of cases due to court closures and pandemic-related capacity reductions. Triage and caseload management techniques are

vital court management tools for case processing during these difficult times. The previous brief, [Children, Family and Elders Overview: Addressing Backlog and New Filings](#), describes a number of case management techniques for children, family, and elder case types with links to further resources.

While many courts have experienced a decrease in new delinquency cases during the pandemic, recommendations emphasizing the importance of keeping youth at home with their families have caused courts to take a closer look at processes for determining which youth are detained. Some youth who would previously be detained for community protection reasons are now in their home with limited or altered access to supports. Similarly, young people who already had active cases when the pandemic started have experienced barriers to completing required supervision obligations. As a result, many cases stagnated; some youth are on supervision or even in out-of-home placement longer than necessary and, potentially, longer than is beneficial to the youth.



Trauma-Responsive Case Management

Trauma-responsiveness means to "acknowledge the prevalence and impact of trauma and attempt to create a sense of safety for all participants, whether or not they have a trauma-related diagnosis."¹ The impact of trauma is an important consideration in every delinquency case.

Case Management Out of Court

There are many opportunities to move delinquency cases forward outside of court hearings.

- Paper motions can be filed in most courts for actions such as trial home placements, reduction of community service hours, and closing probation.
- Reconsider whether in-person case reviews are necessary for youth who are making progress on their case plans.
- Provide incentives to youth for demonstrating pro-social behavior or progressing on their case plan.
- Support a range of responses to non-compliance that do not require a court appearance, such as increased frequency of check-ins with a probation officer or pro-social activities.

Juvenile probation practices must shift to meet social distancing and shelter-in-place guidelines.

- Communicate frequently with youth, their families, and team members.
- Ensure families have access to technology and understand how to use it.
- Ensure young people have the opportunity to complete case plan activities, including trauma-responsive services, virtually or in a safe, socially distant way.
- Collaborate with community organizations to identify safe, pro-social ways for youth to build skills or progress on their case plan.
- See Annie E. Casey's [10 Ways Juvenile Probation Can Meet the Coronavirus Challenge](#) for more tips.

Communications with the Public

Caregivers and community members have an interest in understanding how youth will be held accountable in a safe and trauma-informed way and how public safety will be protected during the pandemic. Make sure the following information is easily found on the court's website:

- How and when delinquency cases are being heard.
- Changes in court policies around timing of detention hearings.

¹https://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf

- Current diversion programs and alternatives to detention.
- Any state requirements for keeping facilities safe.

Preparing to Hold Trauma-Informed Hearings

The court can take specific actions to lower anxiety and increase engagement by parties in a way that is responsive to trauma. Parties should know how to participate in the hearing, who will participate, when they will be asked to speak, and what decisions will be made. Consider what modality will best serve the parties and the interest of justice: in-person, virtual or a hybrid with some parties in the courtroom and others appearing remotely. Depending on the type of hearing and participants' circumstances, allowing an option for some to attend the hearing virtually may allow for both an effective process and social distancing.

Special Tips for Delinquency Cases

- Provide training to judges and court staff on the impact of trauma on youth and families.
- The National Juvenile Defenders Center recommends that during the pandemic, youth and defense attorneys limit their consent to participate in, and juvenile courts limit their use of, remote hearings to only proceedings targeted at increasing youth liberty, whether that be release from facilities or programs, or terms of probation or commitment.

Holding Trauma-Informed Hearings

Schedule time-certain hearings. They lower the anxiety of waiting for a hearing and are respectful of people's time.

- Identify everyone's name and role in the hearing.
- State clearly the purpose of the hearing and what participants can expect.
- Acknowledge the challenges of the current situation.
- Maintain procedural justice principles - voice, respect, understanding, and neutrality.
- Understand and watch for triggers such as direct eye contact, raised voices, or sudden noises.
- Allow time and space for response – don't rush.
- Check for understanding during the hearing.
- Provide real-time documentation of the outcome and next steps.

Special Tips for Delinquency Cases

- Discuss how and when to implement a trauma screening and document how the results of the screening will be shared and used.
- Implement a policy that discourages shackling of juveniles in hearings.
- See NCJFCJ's [Enhanced Juvenile Justice Guidelines](#) for more information.

Considerations for Remote Hearings

Many courts conducting remote hearings during the pandemic have found "silver linings" in the form of increased participation by parties, often due to decreased conflicts between court and school or

work schedules and removal of barriers to transportation.

NCSC has produced a [Bench Guide for Judges](#) on meeting the core elements of procedural fairness in a remote hearing context.

Note that access to equipment, the internet, or technological skills may be a barrier to participation in remote hearings for some young people and their families. Some courts provide access to equipment to participate in online hearings for those who need it. Considerations of procedural fairness overlap considerably with elements of trauma-informed hearings. Practices to consider specific to remote hearings include:

- Use the “waiting room” function of many virtual platforms to give participants time to log in.
 - Explain how the remote hearing will work in plain language in writing ahead of the hearing, with a video on the court’s website, and at the beginning of the hearing.
 - Check in to make sure people are still connected, especially participants who are connected by phone or only by audio. Do not assume that silence is assent.
 - Do not treat an inability to connect as a failure to appear.
 - Ask everyone in the room with the respondent to identify themselves.
 - Ask someone at a remote location to pan the camera around the room to see who is present if it is a video hearing.
- Provide real-time documentation of the outcome and next steps, if any, at the conclusion of the hearing.

Special Tips for Delinquency Cases

- The breakout room feature in most remote platforms can be used as a way for young people to communicate with their attorney.
- Confirm that the young person is able to see all individuals who will be speaking.

In-Person Hearings

Facilitate social distancing in the courtroom as well as in security, hallways, elevators, and restrooms. See NCSC’s pandemic resource paper, [Considerations for Reopening the Courthouse](#). Social distancing requirements, such as space between seats and time-certain hearings are trauma-responsive practices too.

Hybrid Hearings

Hybrid hearings are hearings in which some individuals are in the courtroom and others are participating remotely. Tips from remote and face-to-face hearings apply, though these tips may be particularly useful:

- Everyone in the courtroom should speak into a microphone to be clearly heard by remote participants.
- Some courts use [“meeting owls”](#) that automatically focus in on the participant speaking in the hearing.

- Check in to make sure remote participants can hear clearly at the beginning, and periodically during, the hearing, and prior to making a ruling.

Court Staff & Secondary Trauma

No development of a trauma-informed approach should neglect the effects of trauma on court professionals and service providers themselves; what is sometimes termed "secondary trauma." A 2017 NCSC article, [Secondary or Vicarious Trauma Among and Court Personnel](#) provides a general introduction to the concept and symptoms, and some approaches to mitigation. The NCSC webinar [Addressing Court Workplace Mental Health and Well-being in Tense Times](#) is a useful resource for court staff working with the public.

Special Tip for Delinquency Cases

See NCTSN's [Keeping Yourself and Your Kids Safe and Healthy in the Pandemic: Tips for Judges, Legal Professionals, and Court Personnel](#)

Additional Resources

These child welfare legal sites have collected numerous resources related to court operations in child welfare cases during the pandemic:

- [The National Association of Counsel for Children COVID-19 Resource Hub](#)
- [The National Council of Juvenile and Family Court Judges COVID-19 Resources and Updates Page](#)