

## Detention Hearing Checklist for Juvenile Court Judges/Hearing Officers

- Record or keep full minutes of each hearing.
- Remove restraints prior to the commencement of the hearing unless the Court determines on the record, after providing the juvenile an opportunity to be heard, that they are necessary to prevent:
  1. Physical harm to the juvenile or another person;
  2. Disruptive Courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or
  3. The juvenile, evidenced by an escape history or other relevant factors, from fleeing the Courtroom.
- Introduce yourself to everyone in attendance, and ensure that all who are present introduce themselves and the purpose for their attendance at the detention hearing.
- Ensure that parent(s) or guardian(s) of the juvenile are present. If not, determine the reason for absence and make necessary arrangements for future participation.
- Explain that the detention hearing consists of two stages:
  1. Determination of probable cause that a delinquent act was committed by the juvenile;
  2. Determination whether detention is warranted.
- If presiding as a Juvenile Court Hearing Officer, prior to the commencement of the hearing, inform the parties to the proceeding that the juvenile and the Commonwealth have a right to have the matter heard by a judge.

### Stage One: Determination of Probable Cause

- Inform the juvenile of the right to counsel, to retain private counsel, or to be assigned counsel, and that they may not waive counsel for a detention hearing.
- Inform the juvenile of the right to remain silent with respect to any allegation of delinquency.
- Ensure a copy of the written allegation is provided to the juvenile and the juvenile's guardian(s).
- Ensure that all those who may testify are sworn to tell the truth.
- Ensure that the attorney for the Commonwealth is present to provide evidence as the Commonwealth deems necessary to support the written allegation.

- Ensure that the juvenile and the juvenile's attorney may cross-examine witnesses offered against the juvenile and may offer evidence or witnesses, if any, pertinent to the probable cause determination.
- Determine if probable cause exists.
- If probable cause does not exist, the juvenile must be released.
- If probable cause does exist, the Court must determine whether detention is warranted.

## Stage Two: Determination of Whether Detention is Warranted

- Hear pertinent evidence concerning the detention status of the juvenile.
- Ensure the unity of the family whenever possible.
- Do not detain unless detention is required:
  1. To protect the person or property of others, or of the juvenile;
  2. Because the juvenile may abscond or be removed from the jurisdiction of the Court;
  3. Because the juvenile has no parent, guardian, or custodian or other person able to provide supervision and care and return the juvenile to the Court; or
  4. When an order for his detention or shelter care has been made by the Court.
- Ensure the attorney for the Commonwealth presents evidence as the Commonwealth deems necessary to support the need for detention.
- Ensure that the juvenile probation officer reviews all alternatives to secure detention and provides a recommendation to the Court regarding whether detention is warranted.
- Ensure an opportunity for the youth to cross-examine witnesses offered against the juvenile, and to offer evidence or witnesses pertinent to the detention determination.
- Determine whether detention is warranted. Summarize reasons for decision.
- If the youth remains detained, explain that the adjudication hearing must be held within ten days of the filing of the petition.
- Determine whether there are any special needs identified to address while the juvenile is in detention.
- At the conclusion of the hearing, summarize the proceeding for those in attendance, confirm what just occurred, explain any next steps and relevant timelines/rights, and ensure that the juvenile understands any expectations prior to the next hearing.