

## TALKING POINTS FOR JUVENILE DEFENDERS

Set forth below is a list of key talking points intended for potential use by juvenile defenders in arguing against detention of their child clients. These arguments are meant to supplement jurisdiction-specific arguments stemming from local bond or detention statutes, and are focused solely on the harm that children suffer when removed from their homes and placed in detention:

- In assessing bond, this Court should consider the well-documented harm caused by separation of children from their primary caregivers, as well as the harm to the child caused by detention.
- **Harm of Juvenile Detention:** Numerous scientific studies have established the profound psychological, emotional, and even physical harm to children who are placed in juvenile detention. The National Juvenile Defender Center released a report which categorizes these harms as follows: <sup>1</sup>
  - Increased Victimization: According to one study, 56 percent of youth in custody were subject to one or more types of violent victimization, such as robbery, physical assault, or sexual assault. <sup>2</sup>
  - Increased Recidivism
  - Increased Dropout Risk
  - Long-Term Physical and Mental Health Outcomes
- **Harm of Separation from Family:** The Court also should consider the trauma that a child experiences when separated from his or her family.
  - Children organize their worlds around their parents/caregivers, and removal from this world creates an overwhelming sense of loss for them.
  - Children placed in institutional settings “experience little more than transient serve and return interactions” where children are cared for by many different people, “making it extremely difficult to develop meaningful relationships with any single caregiver.” (National Scientific Council on the Developing Child 2012).
  - Children who are removed are in crisis: everything in their world is upended, and they are “overwhelmed with feelings of abandonment, rejection, worthlessness, guilt, and helplessness.” (Folman, 1998).

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<sup>1</sup> For a good summary of the risks that children face in detention, see National Juvenile Defender Center, *A Right to Liberty: Resources for Challenging the Detention of Children* (August 2019), available at: <https://njdc.info/wp-content/uploads/2019/A-Right-to-Liberty-Resources-for-Challenging-the-Detention-of-Children-1.pdf>. The National Juvenile Defender Center also has published a sample habeas petition to challenge existing detention orders, available at: <https://njdc.info/sample-habeas-challenging-detention/>.

<sup>2</sup> *Id.*, citing Andrea J. Sedlak *et al.*, U.S. Dep’t of Justice, Office of Juvenile Justice & Delinquency Prevention, *Nature and Risk of Victimization: Findings from the Survey of Youth in Residential Placement* (2013), OJJDP Juv. Just. Bull., available at: <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/240703.pdf>.

- On a physical level, when a child is removed from his or her home, that separation results in a flood of stress hormones throughout the brain and body.
- These stress hormones have incredibly detrimental effects:
  - Short term effects included difficulty sleeping, developmental regression, and depression. (Goydarzi 2018)
  - Longer term, stress can impact the child's ability to regulate reactions to stressful situations. This can lead to permanent architectural changes in the brain that regulate fight or flight instincts, and which impact a child's ability to evaluate risks and make good decisions. *Id.*
  - The stress of separation can also have significant physical consequences, increasing the child's risk of developing physical ailments, including heart disease, diabetes and cancer. (Goydarzi 2018; Eck 2018)