

13.4 Predisposition Investigation and Report

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13.4 Predisposition Investigation and Report

A. Consent for Preparation of the Report

The juvenile court counselor must obtain consent of the juvenile, the juvenile's parent, guardian, or custodian, or the juvenile's attorney to prepare the predisposition report and risk and needs assessment (also called the disposition report) before adjudication.

G.S. 7B-2413. Without consent, the predisposition report cannot be prepared until after an adjudication, and the dispositional hearing will be continued unless the court makes a written finding that a report is not needed for disposition to proceed. *Id.* This consent is typically granted by the juvenile or a parent, guardian, or custodian at the intake meeting with the court counselor. *See infra* Appendix 13-1: Authorization to Prepare Pre-Disposition Report. If the juvenile or the juvenile's parents consent to preparation of the pre-disposition report before adjudication, counsel should advise the juvenile and the juvenile's parents that they should not discuss the allegations in the petition with the court counselor.

In most cases it will be beneficial to the juvenile for the report to be written before adjudication. If the petition is dismissed at adjudication, the report is of no consequence. If the juvenile is found to be delinquent, having the prepared report may prevent the need for a continuance. This is particularly important if the juvenile is being held in secure custody. It will also give counsel more time to review the report, affording the opportunity to bring factual mistakes to the attention of the court counselor, to provide positive information to the court counselor that was omitted, and to subpoena witnesses regarding the information in the report.

B. Contents of Report

A predisposition report prepared by the juvenile court counselor must be submitted before the dispositional hearing. A risk and needs assessment, which is a comprehensive evaluation of the juvenile, must be part of the predisposition report. The risk and needs assessment must contain information regarding the juvenile's social, medical, psychiatric, psychological, and educational history. G.S. 7B-2413.

C. Risk Factors

G.S. 7B-2413 require that the report include any factors indicating the probability that the juvenile will commit further offenses. Counsel should review the court counselor's file

and be prepared to cross-examine the juvenile court counselor and subpoena necessary witnesses about any asserted factors. Through cross-examination and direct testimony from the juvenile's witnesses, mistakes in the report may be corrected and positive information elicited.

Because the section of the report on risk factors is more subjective, there may be more reason to cross-examine the juvenile court counselor about its contents, especially if the report concludes that there is a high risk of the juvenile committing further delinquent acts or otherwise contains information that could be harmful to the juvenile. Cross-examination should explore whether the risk factors are based on incorrect information or faulty assumptions. Counsel should be careful in questioning, however, because it might allow the juvenile court counselor to discuss the risk factors in more detail to the detriment of the juvenile's case. An alternative is to argue that the factors listed do not put the juvenile at risk for re-offending or that the juvenile court counselor has made unwarranted or contradictory assumptions.

D. Right to Review before Dispositional Hearing

The juvenile, as well as counsel, has the right to review the predisposition report with the attached risk and needs assessment before the dispositional hearing. G.S. 7B-2413. However, the trial court may withhold the report if it determines that disclosure of the report would "seriously harm the treatment or rehabilitation of the juvenile or would violate a promise of confidentiality." *Id.*

In many districts the report is presented to counsel at the same time the report is presented to the court, affording counsel little time to review the report and consult with the juvenile. Counsel should consider pressing for delivery of the report before the hearing or requesting additional time to review the report.

Some juveniles will want to read the report, although others may be satisfied if counsel explains it to them. If the juvenile wants to read the report, counsel should review it with the juvenile to assist in interpretation.

Although the statute concerning the predisposition report does not specify a parent, guardian, or custodian as a person entitled to review the report, these people may have the right to do so pursuant to their statutory right to review files concerning the juvenile. *See* G.S. 7B-3001. Because the statutory right is not clear, counsel should direct the parent, guardian, or custodian to address a request for the predisposition report to the court.

E. Right to Present Rebuttal Evidence to Predisposition Report

The juvenile and the juvenile's parent, guardian, or custodian are entitled to present evidence to rebut the information in the predisposition report. G.S. 7B-2413. Both the juvenile and the juvenile's parent, guardian, or custodian are generally entitled to present evidence at disposition and to present a proposed dispositional plan. G.S. 7B-2501; *see*

supra “Disposition” in § 3.5E, Parent, Guardian, or Custodian. Counsel should present rebuttal evidence as well as positive information regarding the juvenile.