

Chapter 19: Predisposition Studies in Juvenile Proceedings

[19.1] Overview

In the state systems, after a determination in an adjudicatory hearing that the allegations in the petition are true and that a “wardship” is necessary, a dispositional hearing is set to determine the final disposition of the case.²⁸ When a youth is found to be a “ward of the court” it means that the court, as an agency of the state, has found it necessary to act in place of the youth’s parents (*in loco parentis*). The decisions normally made by the parents are then made by a representative of the court, usually the juvenile probation officer in consultation with the juvenile court judge. States vary as to whether the dispositional hearing must be separate from adjudicatory hearings. In some states the two hearings are separate because different procedures and rights are involved (criminal versus civil standards).

Between the adjudicatory hearing and the dispositional hearing, the probation officers obtain further information to assist the judge in deciding the final disposition of the case. These are called “social background investigations” and “individualized justice” is the goal. The results of these investigations, including interviews with people in the community, are put in a report for the judge. The “probative value” of this information, or its value as proof, might not be as reliable, and in the state systems, it can be challenged in the dispositional hearing. As a result of the Kent decision ([Kent v. United States, 1966](#)), the youth, through his or her attorney, has the right to review the contents of a report containing the results of a social background investigation in certain hearings because there is no irrefutable presumption of accuracy in these reports. In the state systems, this right has been extended to dispositional hearings.

²⁸ Characterizations of state juvenile justice system process are taken from Cox et al., *Juvenile Justice*.

Section 1-13 G. Juvenile Offender--Predisposition Studies--Reports and Examinations
1989 BIA Tribal Juvenile Justice Code



Under the [1989 BIA Tribal Juvenile Justice Code](#), at [Section 1-13](#), the judge directs the juvenile counselor to prepare and draft a “predisposition study and report.” The report must cover information about the child, his or her family, his or her environment, and “any other matter” relevant to his or her treatment or “other appropriate disposition of the case.” The report must also contain a plan for the child aimed at resolving the problems identified in the petition.

The judge may also order medical assessments, testing by psychiatrist, psychologist, or psychometrician, and/or an examination of the child and/or his or her parent(s) or custodian(s), where they consent, by a physician, psychiatrist, or psychologist. Evaluations, assessments, and dispositional reports must be submitted to the juvenile court and the parties no later than three days before the scheduled hearing date. A psychometrician is a person, for example a clinical psychologist, who is skilled in the administration and interpretation of objective psychological tests.

[19.2] Model Code Example

[\(1989\) BIA Tribal Juvenile Justice Code](#)

[1-13 Juvenile Offender—Predisposition Studies: Reports and Examinations](#)

1-13 A. Predisposition Study and Report

The court shall direct the juvenile counselor to prepare a written predisposition study and report for the court concerning the child, the child’s family, environment, and any other matter relevant to need for treatment or other appropriate disposition of the case when:

1. the child has been adjudicated as a “juvenile offender”; or
2. a notice of intent to admit the allegations of the petition has been filed.

[19.3] Tribal Code Example

Sault Ste. Marie Tribal Code

CHAPTER 36: JUVENILE CODE

SUBCHAPTER IV: ORGANIZATION AND FUNCTION OF THE JUVENILE DIVISION

- (1) The Court may direct the juvenile probation officer to prepare a written disposition study and report for the Court concerning the child, the child's family, environment, and any other matter relevant to need for treatment or other appropriate disposition of the case when:
 - a. The child has been adjudicated as a juvenile offender.
 - b. A notice of intent to admit the allegations of the petition has been filed.
 - c. Upon request of the Juvenile Division.
- (2) The report shall contain a specific plan for the child, aimed at resolving the problems presented in the petition. The report shall contain a detailed explanation showing the necessity for the proposed plan of disposition and the benefits to the child under the proposed plan. Preferences shall be given to the dispositional alternatives which are least restrictive of the child's freedom and are consistent with the interests of the community.
- (3) The Juvenile Division may order a medical assessment of a child arrested or detained for a juvenile offense relating to or involving alcohol or substance abuse to determine the mental or physical state of the child so that appropriate steps can be taken to protect the child's health and well-being.
- (4) Where there are indications that the child may be emotionally disturbed or developmentally disabled, the Court, on a motion by the prosecutor or that of counsel for the child, may order the child to be tested by a qualified psychiatrist, psychologist or licensed psychometrician prior to a hearing on the merits of the petition. An examination made prior to the hearing, or as part of the predisposition study and report, shall be conducted on an outpatient basis unless the Court finds that placement in a hospital or other appropriate facility is necessary.
- (5) The Court may order an examination of a child adjudicated as a juvenile offender by a physician, psychiatrist, or psychologist. The Court may also, following the adjudicatory hearing, order the examination by a physician, psychiatrist, or psychologist of a parent or custodian who gives his consent and whose ability to care for or supervise a child is an issue before the Court at the dispositional hearing.

- (6) The Court may order that a child adjudicated as a juvenile offender be transferred to an appropriate facility for a period of not more than sixty (60) days for purposes of diagnosis with direction that the Court be given a written report at the end of that period indicating the disposition which appears most suitable.
- (7) Evaluations, assessments, dispositional reports and other material to be considered by the Court in a juvenile hearing shall be submitted to the Court and to the parties no later than three (3) days before the scheduled hearing date. A declaration including reasons why a report has not been completed shall be filed with the Court no later than three (3) days before the scheduled hearing date if the report will not be submitted before the deadline. The Court may in its discretion dismiss a petition if the necessary reports, evaluations, or other materials have not been submitted in a timely manner.

[19.4] Tribal Code Commentary

The Sault Ste. Marie provisions and the 1989 BIA Tribal Juvenile Justice Code provisions are nearly identical. The one significant difference is the Sault Ste. Marie Tribe's addition, at Section 36.412, that the judge may order a predisposition study and report even when a child is not admitting to, or has not been adjudged, a "juvenile offender":

- (1) The Court may direct the juvenile probation officer to prepare a written disposition study and report for the Court concerning the child, the child's family, environment, and any other matter relevant to need for treatment or other appropriate disposition of the case when:
 - a. The child has been adjudicated as a juvenile offender.
 - b. A notice of intent to admit the allegations of the petition has been filed.
 - c. Upon request of the Juvenile Division.

This addition gives the juvenile court judge the discretion to order a predisposition study and report at any point in the process, regardless of whether the youth will admit to, or be proven to be, a juvenile offender. The upside is increased power in the judge to look out for the youth's needs at any point in the process. The downside is that the judge now has the power to, in a sense, snoop around in the youth's affairs before he or she has admitted to committing, or is shown to have committed, a juvenile offense.

[19.5] Exercises

The following exercises are meant to guide you in writing the predisposition studies and reports section of the tribal juvenile code.

- Find and examine your juvenile code’s provision for drafting studies or reports prior to a [disposition] hearing.
 - Who is responsible for doing this?
 - What information is this person supposed to get?
 - Where is this person supposed to get his or her information?
 - Do you think this information is reliable?
 - What would make it more reliable?

Read and Discuss*

Should predisposition reports be drafted “in the best interests of the child”?

Should they be relied upon for determining guilt or only for determining disposition (treatment, placement, punishment, reparations)?

“Once a youth is adjudicated a delinquent youth or a status offender, the court decides the most appropriate sanction—referred to as formal disposition. Disposition is similar to sentencing in adult courts. Traditionally, disposition has been one of the key decision points at which the court considers ‘the best interests of the child.’ Disposition is imposed at the dispositional hearing, which is separated in time from adjudication hearings. After adjudication, but before the dispositional hearing, a predisposition report is usually written by a probation officer. Authorized by court order and statutory law, the report provides an evaluation of the youth and his or her background and social environment. The predisposition report attempts to provide assessment information to the judge so that disposition can be individualized and directed at rehabilitation. The predisposition report is commonly organized with three major sections: the offense section, a social history, and a summary and recommendation.”

- Offense Section
 - Official version of the offense
 - Commentary re: juvenile’s version of the offense
 - Prior record (including previous arrests, petitions, adjudications, and dispositions)
 - A victim impact statement
- Social History—Observations About . . .

- The juvenile and his or her family background
- Educational experiences and achievements
- Friends
- Employment
- Neighborhood context
- Summary and Recommendation (sometimes all the judge reads)
 - Evaluative summary highlighting key findings
 - Recommendation Re: Disposition

*Taken from James W. Burfeind and Dawn Jeglum Bartusch, *Juvenile Delinquency: An Integrated Approach*, 2nd ed. (Sudbury, MA : Jones and Bartlett, 2011).