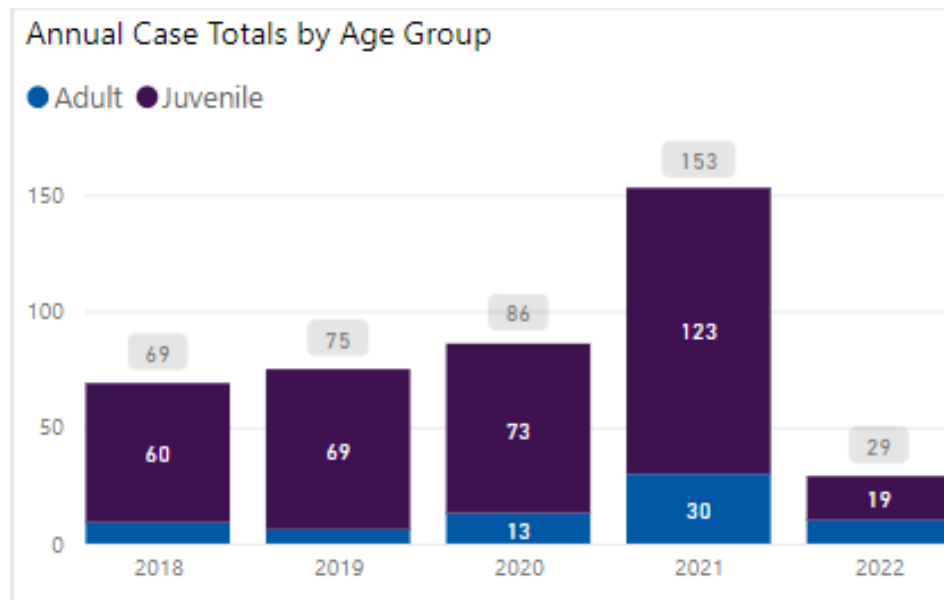


# EJJ Update From County Attorney



# Charged Cases, 2018-2022 (year to date), Gun Possessed or Used, Felony.



Question Presented: As it relates to EJJ, what data point is your agency focusing on as it relates to disparities in EJJ?

- Decision Points:
  - If to file a motion.
  - Which motion to file.
  - Resolution of motion.
  - Probation Revocation, if applicable.
  - Subsequent cases, if applicable.
  - Discharge from probation.

# Data to collect and analyze (non-exclusive):

- Motion Filed vs. Motion not Filed
- Facts/Circumstances of Case
  - Charge
  - Firearm/Weapon Used
  - Other Weapon Used
  - Level of Injury to victim
  - Victim input
- Juvenile's Delinquency History
- Juvenile's Programming History
- Recommendations of Probation
- Recommendation from Psych Services
- Resolution of Case
  - Outcome (Cert/EJJ/Juvenile)
  - Trial vs. Negotiation
  - Programming
- Demographics of Juvenile
  - Age
  - Race/Ethnicity
  - Gender
  - Residence
- Location
  - Submitting Agency
  - Location of incident

Question Presented: What is your agency hoping to accomplish as it relates to that data point and reduction/elimination of disparities?

- Violence Prevention: Reduction in serious juvenile crime that is subject to motions.
- Public Safety: Certification and EJJ Motions are filed when necessary to protect community safety.
- Equity: Similarly situated youth are treated similarly with respect to all decision points. In particular, ensuring there is no difference by race in the decision points.

Question Presented: What policy and/or practice changes is your agency implementing to meet your goal?

- Prevention efforts – Diversion, Job training programming, and voluntary pre-trial supports.
- Public Safety Factors – Ground decisions in statutory Public Safety Factors when making decision to file motion, what motion to file, and resolution of motions.
- Pre-Motion Screening process – Expand use of pre-motion screening by finding ways to obtain information on public safety factors before filing motions.

# HCAO EJJ Law, Policies and Considerations



# Extended Jurisdiction Juvenile

[Minn. Stat. 260B.130](#) – EJJ (Juvenile Probation until 21)

## **EJJ PATHWAYS**

- Court EJJ Designation following Certification Motion;
- Prosecution EJJ Motion;
- Prosecution EJJ Designation;
- By Negotiation.



## Public Safety Factors - [260B.125, subd. 4](#)

- (1) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the Sentencing Guidelines, the use of a firearm, and the impact on any victim;
- (2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the Sentencing Guidelines;
- (3) the child's prior record of delinquency;
- (4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;
- (5) the adequacy of the punishment or programming available in the juvenile justice system; and
- (6) the dispositional options available for the child.

## Reports and Studies

Certification – [Minn. R. Juv. D. P. 19.03](#)

EJJ – [Minn. R. Juv. D. P. 18.04](#)

- The court may order “social, psychiatric, or psychological studies.”
- Reports must be written but are not public and cannot be shared with victims.
- Can include recommendation to the court but must address the public safety factors and dispositional options (Cert v EJJ v Straight Juvenile).



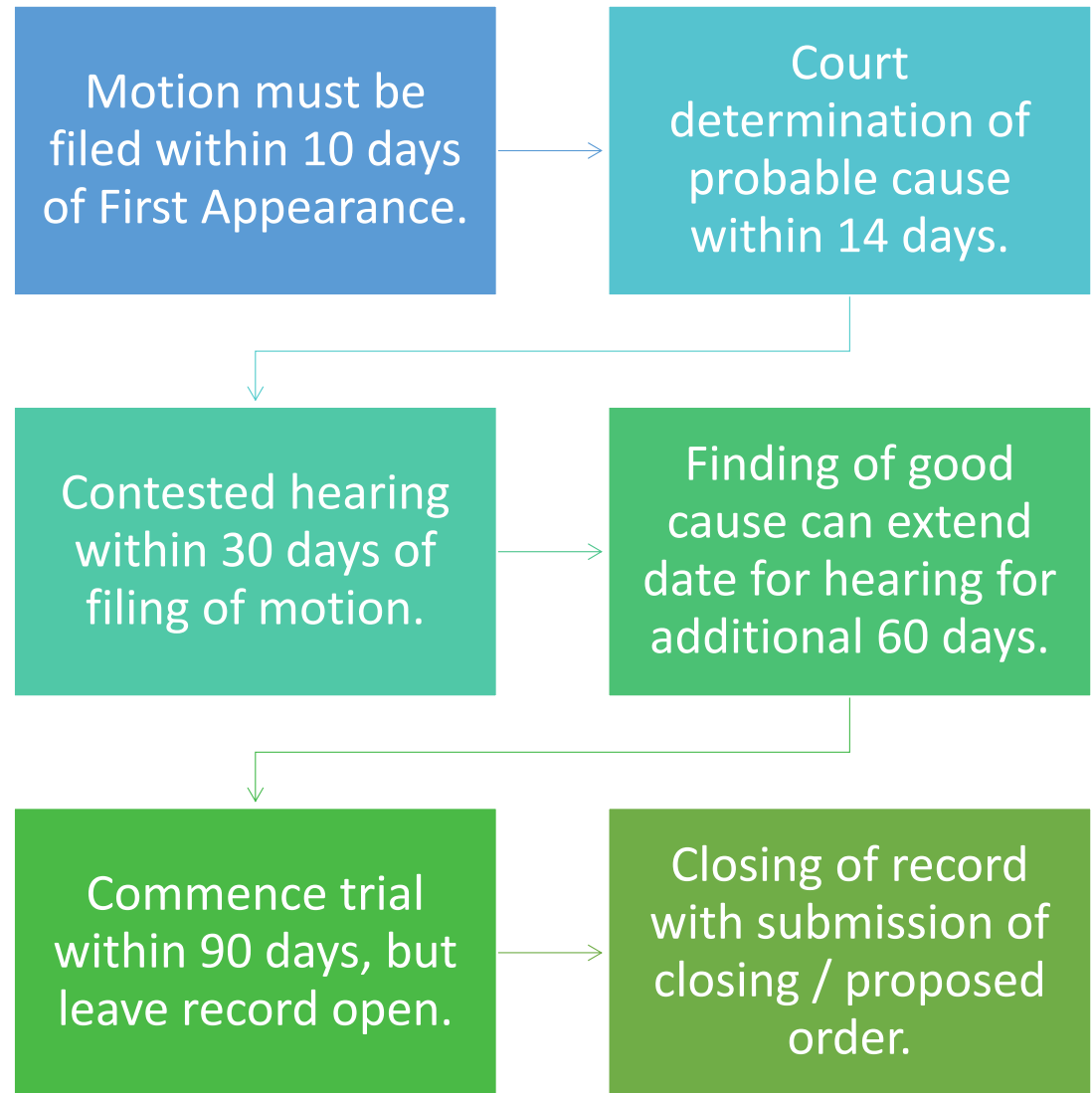
# Contents of EJJ / Certification Study

- Offense Information;
- Offense History;
- Personal History (Family, Human Services, Education, Employment, Peers, Leisure/Recreation, Areas of Strength);
- Intervention History (Detention, EHM, Warrants, Probation, Community Based Services, Out of Home Placements);
- Mental & Chemical Health History (Diagnostic Assessments, Chemical Health Evaluations).
- Additional Information (Collateral contacts);
- Victim Impact;
- Summary (Public Safety Factors)
- Recommendation.

# Contents of Forensic Psychological Evaluation

- Background Information (Family and Developmental History, Education History, Social History, Medical History, Mental Health History).
- Collateral Mental Health Records.
- Substance Abuse History;
- Legal and Programming History (Current Allegations);
- Mental Status Observations;
- Psychological Testing (IQ testing, Wide Range Achievement Test, Personality Assessment Inventory-Adolescent Version);
- DSM-5 Diagnostic Impressions.
- Risk Assessment (SAVRY);
- Summary of Treatment Recommendations.
- Can include certification recommendation, but must analyze public safety factors.

# Timeline Considerations





# Prosecution EJJ Motion

Two Minimum Threshold Requirements: 1) Child must be at least 14 years old;  
2) Must commit offense that would be an adult felony

Prosecutor Files Motion

Prosecutor shows by clear and convincing evidence that designating the proceeding an extended jurisdiction juvenile prosecution serves public safety.

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# Prosecution EJJ Designation

Meets Presumptive Certification Criteria

16 or 17, prison case / gun case

Prosecutor Designates EJJ, instead of filing Certification Motion.

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Policy Regarding  
Filing of EJJ  
Motion



# Motion Guidelines in Non-CSC cases

## Youth is 14-15 years old.

- For Murder 1, Level XI and Level X cases involving death, baseline presumption is for State to file a non-presumptive certification motion.
- For Level IX cases, baseline presumption is an EJJ motion.
  - IX includes, Assault 1 (great bodily harm), Kidnapping (great bodily harm), 1<sup>st</sup> degree manslaughter.
- Level VIII cases involving discharge of a real firearm and/or great bodily harm, baseline presumption is EJJ Motion

# Motion Guidelines in Non-CSC cases

## Youth is 14-15 years old.

- These are baseline presumptions and attorneys should consult with senior attorney prior to filing motion.
- Need supervisor approval before making motion other than baseline presumption, and before deciding not to make a motion when the baseline presumption is a motion.
- Consider Public Safety Factors (mitigating and aggravating factors, juvenile history, and prior programming, etc.)

# Motion Guidelines in Non-CSC cases

## Youth is 16-17 years old.

Baseline presumption is for Cert Motion in:

- Murder 1, Level XI, Level X, Level IX, and Level VIII cases.
- For Level VII & below, if case involving a gun and/or great bodily harm.

Attorneys should consult with senior prior to filing motion.

To file a motion outside these guidelines, or to not file a motion in these cases, requires supervisor approval and/or managing attorney approval.