

# Navigating MH and IDD in Juvenile Court

Hon. Cynthia Porter Gore

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# Case study: 14-year-old Brianna

Referred for Injury-Elderly Person; lives with grandparents; refused to go to school in the morning and a scuffle ensues. Verbal argument turns physical, and Brianna throws items at grandparents. Grandmother was hit in the eye with a shoe, which blackened her eye. Grandfather was hit by a stuffed toy and a school textbook, which did not cause pain. Grandfather bear-hugged Brianna while grandmother called 911. Police arrive quickly, grandparent explain what happened, and Brianna is taken to the juvenile detention center.

In detention, Brianna follows instructions but does not eat, participate in the program or engage with other youth. At bedtime, she is heard saying “I want to die.”

# Detention Hearing

Brianna cries quietly and approaches the bench when it is her turn. When PO reads the offense report, Brianna hits her head on the bench, twice, hard, before PO can stop her.

Brianna's attorney argues this is her first referral, detention is traumatizing, and that Brianna should be released.

Grandparents say they love Brianna and don't want her in any trouble, but she is beyond their control and they can't provide suitable supervision right now.

# Brianna is detained.

At intake meeting, grandparents advise Brianna is willful and aggressive and has slapped them and thrown things at them. She has grown up and they have become frail. Brianna is in 6<sup>th</sup> grade, has a general learning disability, and is taller and older than her classmates, who make fun of her. Teachers note that Brianna keeps to herself, has a temper, and doesn't seem to have a friend group. Brianna is behind in her classes.

Biological parents are out of the picture; mother had serious addiction issues, including several criminal drug cases. Grandparents have had Brianna since shortly after her birth, when she tested positive for drugs in the hospital.

# 10-Day Detention Hearing

Defense attorney has visited Brianna 2x/week in detention and had 4 phone calls before the 10-day detention hearing.

Prosecutor filed the Injury-Elderly Person case, a 3<sup>rd</sup> degree felony.

It's clear that Brianna doesn't understand the court process like other 14-year-olds or even like other 6<sup>th</sup> graders.

# Fitness to Proceed

Defense attorney files a motion to have Brianna examine for Fitness. Brianna is detained until the exam can be performed. The report indicates that Brianna is not fit, but does not specify a reason, because Brianna disengaged and declined to participate for part of the exam. Examiner had Brianna's school records, which estimate her IQ is lower than average, around 75 to 80. Examiner gives an opinion that Brianna meets the criteria for clinical depression, social anxiety, and ADHD.

# Fitness to Proceed

Now assume the report is clearer. Examiner states Brianna is not fit to proceed due to her mental health conditions, clinical depression and ADHD. He recommends that Brianna start taking medication for both conditions and gives an opinion that she might be able to be restored at the State Hospital.

The Court holds a hearing and orders Brianna into inpatient restoration services at the State Hospital for 90 days. Brianna is transferred to the State Hospital a few weeks later.

# Resources

- ▶ [JCMH Juvenile Bench Book](#)
- ▶ [Texas Juvenile Law, 9<sup>th</sup> Edition](#) (the Dawson Book)
- ▶ [Juvenile Justice Training Academy](#)
- ▶ [www.juvenilelaw.org](http://www.juvenilelaw.org)