

# Chapter 9

## Delinquency and Disposition Determinations

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- Disposition of DUI Charges
- Administration of Restitution Funds
- Juvenile Justice System Enhancement Strategy (JJSES)
- The Standardized Program Evolution Protocol (SPEP)

## § 9-1 Delinquency and Disposition Determinations in General

After finding that a juvenile committed at least one of the acts alleged in the delinquency petition, the court must proceed to hear evidence regarding whether the juvenile is “in need of treatment, supervision or rehabilitation.”<sup>1</sup> If the court determines the juvenile is in such need,<sup>2</sup> the court must enter an appropriate disposition. Generally, court ordered treatment, care or supervision, pursuant to a delinquency disposition, should seek to further the purposes of the Juvenile Act, 42 Pa.C.S. §6301(b). To accomplish those purposes, the court must employ evidence-based practices whenever possible and use the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child. Confinement may be imposed only if necessary.<sup>3</sup> Dispositional hearings must be prompt,<sup>4</sup> conducted in accordance with mandated procedure<sup>5</sup> and followed by an appropriately crafted dispositional order.<sup>6</sup> Developing and implementing delinquency dispositions are among the most important responsibilities entrusted to juvenile court judges.

### §9-2 Best Practices

- In order to craft and implement effective dispositions, the judge should be knowledgeable about the community-based and residential services available to the court.
- Prior to the dispositional hearing, the judge should ensure that all necessary information is available, including the juvenile probation office pre-disposition report (social study), the results of the YLS risk/needs assessment, and the results of any other examinations or assessments.
- The judge should, at the commencement of the dispositional hearing, introduce him or herself, identify all persons in the courtroom, and explain the purpose of the hearing.
- The juvenile’s parents or guardians should be present and provided with the opportunity to be heard. If they are absent, judges should determine the reason for the absence and make necessary arrangements for future participation.
- When a juvenile is involved in both dependency and delinquency proceedings, the judge should require the presence of both the youth’s case worker, and juvenile

probation officer at the dispositional hearing, and should ensure their cooperative supervision of the juvenile pursuant to the local shared case responsibility protocol.

- The court should encourage the participation of all concerned. It should be evident that it is the intent of the judge to arrive at a disposition which provides balanced attention to the protection of the community, accountability to the victim and development of the juvenile's competencies.
- Before deciding the disposition of the case, the court must give the victim the opportunity to be heard, and to submit an oral and/or written victim impact statement if the victim so chooses.
- The judge should be aware of and consider the juvenile's trauma history. However, a judge should not risk re-traumatizing or embarrassing the juvenile by discussing the juvenile's trauma history in the courtroom.
- The juvenile's educational needs should be of particular concern to the court in crafting the disposition that will be ordered.
- The court must ensure the family's involvement in treatment, in both the community and placement.
- To achieve the purposes of the Juvenile Act, the court's disposition must address the identified criminogenic needs of the juvenile through the use of evidenced-based practices and interventions that will be included in the juvenile's case plan.
- The judge should ensure that the juvenile understands the court's expectations and the consequences of non-compliance with the dispositional order.
- The judge should strive to visit and become familiar with the community-based and residential programs utilized by the court.

## § 9-3 The Use of Evidence-Based Practices

To achieve the purposes of the Juvenile Act, 42 Pa.C.S. §6301, et. seq., the balanced and restorative justice (BARJ) mission of Pennsylvania’s juvenile justice system, and the goals of Pennsylvania’s Juvenile Justice System Enhancement Strategy (JJSES), any disposition must require the employment of evidence-based practices.<sup>7</sup> The application of evidence-based practices translates directly into enhanced public safety. The research over the last two decades is both clear and compelling regarding those interventions that result in reduced recidivism.

The key concepts in evidence-based practice are the risk, needs and responsivity principles. The **risk principle** refers to the probability that a youth will re-offend, based on characteristics that are correlated with future delinquency. These risk factors are static, or non-changeable. They include, for example, current age, age at first arrest, and number of prior arrests. The **need principle** defines the juvenile’s individual and environmental attributes that are predictive of future delinquent behavior and that can be changed. These are known as criminogenic needs. Examples of criminogenic needs include antisocial attitudes and beliefs, antisocial peers, temperament issues, lack of family support, substance abuse, lack of education, and lack of prosocial leisure outlets. In order to reduce the probability of delinquency and recidivism, a juvenile’s criminogenic needs must be accurately assessed and then effectively addressed through individual supervision and programmatic interventions. The **responsivity principle** emphasizes the importance of characteristics that influence a juvenile’s ability and motivation to learn. Individual traits that interfere with – or facilitate – learning are known as “responsivity factors.” The basic assumption underlying the responsivity principle is that all juveniles and all programs are not the same. As such, better treatment outcomes will result from properly matching a young person’s individual characteristics (e.g., culture, cognitive ability, maturity and gender) with service characteristics (e.g., location, structure, length, dosage, methodology, and facilitator traits).

In short, the **risk principle** helps identify **who** should receive juvenile justice interventions and treatment. The need principle focuses on **what** about the young person must be addressed. The responsivity principle underscores the importance of **how** treatment should be delivered, with behavioral and cognitive behavioral skill-building techniques being the most effective.

Generally, a judge making a disposition decision should consider the following:

- **Individualization.** A juvenile court disposition must be “best suited to the child’s treatment, supervision, rehabilitation, and welfare.”<sup>8</sup> One-size-fits-all dispositions that simply match the penalty to the crime, without regard to individual juveniles’ needs and circumstances, may dispense a kind of justice—but it is not the kind called for in the Juvenile Act.
- **Restraint.** At least when commitment is part of the disposition, the court is required to “impose the minimum amount of confinement that is consistent with the protection of the public and the rehabilitation needs of the child.”<sup>9</sup>
- **Balance.** Above all, the disposition must “provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community.”<sup>10</sup>
- **Community protection.** Disposition decision-making should consider immediate and long-term risks to public safety, as well as ways of managing those risks. What specific risk does the juvenile pose? What is the community’s tolerance for this kind of risk? What can the probation department do, in partnership with the juvenile’s family and community, to manage or minimize the risk? Whether or not the juvenile can be safely maintained in the community depends in part on the range and appropriateness of local dispositional alternatives and community supports available. The same juvenile might be “safely maintained” in a community with adequate monitoring resources and effective services, but not in a community that lacks them.
- **Accountability.** What consequences will be necessary in order to hold the juvenile accountable for the offense? Deliberations should focus on the nature of the harm caused to the community and the victim, the current attitude of the offender with regard to his responsibility for these matters, and the steps that would be called for to repair the harm done, restore the losses, and reinforce and deepen the sense of responsibility. Holding a juvenile accountable does not mean punishing the juvenile. Victim impact information—regarding the nature of the offense, the tangible and intangible harm suffered, the amount of restitution required, etc.—will be pertinent here. But the attitude of the juvenile—his acceptance of responsibility, his awareness and understanding of the consequences of his actions, his remorse—will matter almost as much.
- **Development of competencies.** What measures will enable the juvenile to lead a more law-abiding, pro-social life? The overall goal here is to help the juvenile to

acquire “living, learning, working” skills, end destructive behaviors, and improve cognitive/decision-making skills. Accordingly, the court should ask what thinking or decision-making patterns or social, educational or vocational deficits contribute to the risk of persistent or escalating offending. What strengths can be built upon? What opportunities are needed to practice new skills and receive feedback? How can bonding and attachment to pro-social community entities be encouraged? (See sidebar, “Competency Skills and Goals by Domain.”)

Simply crafting delinquency dispositions with these principles in mind, however, is not enough. Juvenile court judges must make it clear to others that they have listened to the evidence and weighed the considerations called for in the law, and must do their best to explain and articulate the reasons for their dispositional choices, so that juveniles, victims, their families, and others interested in the case can understand and accept those reasons. They must actively follow up on their disposition decisions in individual cases, making it their business to know when things go wrong and why. And they must educate themselves regarding the methods, approaches, track records and availability of dispositional programs for juveniles that come before them, and take steps to expand the range of options where necessary.

### ***Developing Competencies Through Dispositions***

Whatever the disposition imposed at the conclusion of a delinquency case, one of its primary purposes must be—in the oft-quoted words of the Juvenile Act—“the development of competencies to enable children to become responsible and productive members of the community.” Competency development is not a synonym for “treatment” in the sense of clinical interventions addressing substance abuse, mental illness, sexual aggression, and violence. Many youth involved with the juvenile justice system do not need treatment for specific offending behaviors, but nearly all of them could benefit from learning competency development skills. Furthermore, certain treatments help address responsivity factors such as learning disabilities, mental health, and self-esteem: these treatments are required to stabilize youth but do not necessarily advance competency development. Once youth are stabilized, skill building leading to successful community living can be conducted.

The JJSES substantially advances the competency development goal by utilizing actuarial assessments that identify criminogenic needs which, when addressed, reduce recidivism. Pennsylvania selected the *Youth Level of Service/Case Management Inventory (YLS/CMI)* risk/needs assessment to identify these criminogenic needs and pinpoint the skill areas requiring development. The criminogenic needs (dynamic risk factors) assessed by the *YLS/CMI* are: attitudes/orientation, personality/behavior, peer relations, family

circumstances/parenting, substance abuse, education/employment and leisure/recreation. The JJSES endorses the skill enhancement approach, incorporating teaching, modeling, role-playing, coaching, and providing feedback in key competency skill areas. Furthermore, the JJSES provides training and tools to probation officers and other stake-holders to help them develop youths' skills, such as impulse control and problem solving, in order to reduce the likelihood that those involved in the juvenile justice system will commit delinquent acts in the future.

The primary tool for establishing and accomplishing competency development goals is a comprehensive case plan describing the steps that the probation officer and juvenile must take to reduce the risk of recidivism. Case plans must target interventions to the youth's most pressing criminogenic needs and engage youth using effective skill-training interventions and activities such as cognitive behavioral approaches. Additionally, capitalizing on the youth's and family's strengths and on the protective factors within their communities will result in more successful outcomes.



## SIDEBAR

### Competency Skills and Goals by Domain

A focus group of state and local juvenile justice practitioners convened by the Juvenile Justice and Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency clarified the broad goal of competency development in disposition-making by dividing it into five concrete domains, each with its own distinct skills and goals:

Domain	Skills	Goal
Pro-Social	Interaction, problem-solving, impulse control	Better social interactions and problem-solving, reduced conflict
Academic	Basic reading, writing, and math skills as well as general study and learning skills	Catching up with peers in school and advancing to the highest possible level of academic achievement
Workforce	Getting jobs, keeping jobs, achieving promotions, technological skills	Economic self-sufficiency
Independent Living	Budgeting, housing, health insurance, basic living	Self-sufficient living
Moral Reasoning	Understanding how thinking and values affect behavior	Integrating the difference between right and wrong, making the right decisions for the right reasons

Source: Torbet, P. and Thomas, D. (2005) Advancing Competency Development: A White Paper for Pennsylvania. Pittsburgh, PA: National Center for Juvenile Justice.

## END SIDEBAR

## Connection Between BARJ Competency Development Domains and YLS/CMI Domains

<b>BARJ Competency Development Domains</b>	<b>Link to YLS/CMI Criminogenic Need Domains</b>
1. Pro-Social Skills	Personality/Behavior and Peer Relations
2. Academic Skills	Education/Employment
3. Workforce Development Skills	Education/Employment
4. Independent Living Skills	n/a (stabilization factor)
5. Moral Reasoning Skills	Attitudes/Orientation

Source: JCJC Monograph, (November 2015) Advancing Balanced and Restorative Justice Through Pennsylvania’s Juvenile Justice System Enhancement Strategy, p.12.

[https://pachiefprobationofficers.org/docs/BARJ\\_and\\_JJSES.pdf](https://pachiefprobationofficers.org/docs/BARJ_and_JJSES.pdf)

### § 9-4 The Social Study and Other Dispositional Aids

Juvenile court disposition decision-making is generally informed by a social study report on the juvenile and his circumstances, prepared by the juvenile probation department. In addition, the court may order whatever evaluations of the juvenile—including psychological, psychiatric, or drug and alcohol examinations—may be needed to aid decision-making.<sup>11</sup> Finally, as is discussed in “Victim Input at Disposition,” at §9-6 below, the victim may make or submit an impact statement, which must likewise be accepted and considered by the court in determining disposition.<sup>12</sup>

## SIDEBAR

### *A Thorough Predisposition Investigation*

The *Juvenile Delinquency Guidelines* of the National Council of Juvenile and Family Court Judges suggest that pre-disposition investigations should (1) contain only verifiable information that is documented as to source, (2) make use of validated assessment instruments, and (3) be keyed to “a grid that matches youth and family risks, needs, and strengths with disposition alternatives.” According to the *Guidelines*, a thorough pre-disposition investigation should include all of the following:

- Court record information
- Information regarding abuse and neglect
- Recommendations and perspectives from defense counsel and prosecutor
- Victim impact information
- School history
- Service history
- Interview information from the youth and the youth’s parents/guardians, covering:
  - Living and work situation of family members
  - Significant individuals influencing youth
  - Health history
  - Trauma history
  - Substance abuse and mental health/retardation issues
  - Talents and prosocial activities
  - Attitudes regarding offense, beliefs regarding its causes, and willingness to change

Source: National Council of Juvenile and Family Court Judges. (2005). *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases*. Reno, NV: National Council of Juvenile and Family Court Judges.

**END SIDEBAR**

## ***Timing of Investigations***

According to JCJC Standards Governing the Development of the Social Study, a social study “shall be required in every case where a juvenile has been adjudicated delinquent,” in order to provide the court with “timely, relevant and accurate data so that it may select the most appropriate dispositional alternative.”

Under the JCJC Standards, sufficient probation staff and resources should be assigned to social study investigation and report preparation as to enable a department to meet the following reporting deadlines: ten judicial days for cases in which juveniles are detained, three weeks for all other ordinary cases, and five weeks for cases requiring out-of-state investigation. Reports should be submitted far enough in advance of the dispositional hearing to permit thorough review and evaluation. “A minimum of two full days is seen as essential for the Court’s review,” according to the Standards, “but this generalized time frame must be adjusted to judicial schedules and workloads.”

As is discussed more fully below (see § 9-5, “Dispositional Hearings,”), once a juvenile has been found to have committed the offenses alleged in the petition, the Juvenile Act gives the court the option to “proceed immediately” to consider the need for treatment and appropriate dispositions.<sup>13</sup> But a separate Juvenile Act provision generally prohibits the court from directing advance preparation of a social study and report in a case in which the juvenile has not admitted or been found to have committed a delinquent act.<sup>14</sup> Given the informed consent of a juvenile and his family in a factually disputed case, however, there appears to be no prohibition against gathering social study information prior to adjudication. This is, in fact, the routine practice in many Pennsylvania jurisdictions, where—either to expedite delinquency case processing generally or to minimize periods of detention—probation departments prepare social study reports for juveniles in advance of what are in effect combined hearings, in which the fact-finding stage is followed immediately, or after only a short recess, by the disposition stage. In these situations, according to the JCJC Standards, “adequate precautions must be taken to assure that information from the social study report will not be disclosed to the Court prior to adjudication.” In fact, the judge should take care not only to avoid learning the contents of such a report before making the adjudication decision, but even to avoid perceiving the size of the report, which could in some cases be prejudicial.

## ***Contents of Social Study***

The JCJC Standards Governing the Development of the Social Study provide that every social study report should contain information on the following:

- The significance of the offense or offenses that brought the juvenile before the court
- The juvenile's behavior pattern at home, in school, and in the community
- The physical, intellectual, emotional and social development of the juvenile, with emphasis on how this development bears on the juvenile's current and future behavior
- The attitudes of the juvenile's family, school and community and how these may affect the juvenile's chances for readjustment
- Psychological, psychiatric and medical reports or evaluations where needed
- Job history and prospects
- The probation officer's overall evaluation of the juvenile's rehabilitative potential
- The probation officer's recommendation for a disposition that would simultaneously provide for accountability, protect the community, and help the juvenile acquire the skills and knowledge he needs to become a responsible and productive citizen, together with a proposed case plan (sometimes referred to as a supervision plan).

***Judges should insist that social study reports provided by the probation department include all the information the court needs to order complete and balanced dispositions.***

In addition to the items listed above, the social study should contain the juvenile's overall level of risk as determined through the administration of the YLS, as well as victim impact and community impact information, in light of which the probation officer's disposition recommendation can be assessed.

## ***Using Social Study Information***

Juvenile court judges should make the fullest possible use of information contained in social study reports, but avoid taking a passive stance toward those contents. In individual cases, judges should be alert for crucial gaps in information, signs of bias, boiler-plate assessments, and other defects or inadequacies that could negatively affect disposition

decision-making. Particularly in counties in which district attorneys essentially bow out of cases after they reach the disposition stage, leaving it to probation departments to press their own recommendations, judges should be aware of the danger that victim and community interests may be slighted or overlooked because they have no forceful advocate. (As is discussed more fully below, victims have a right under the Crime Victims Act and the Rules to have a “written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim’s family” considered as part of the predisposition report; see “Victim Input at Disposition,” § 9-6.)

### ***The Case Plan***

As is discussed above, the social study concludes with the probation officer’s recommendation for a disposition and case plan. Case plans are written documents that, at a minimum, outline the activities to be completed during a period of supervision. Case plans link assessments with services aimed at improving competencies and reducing recidivism. They are road maps that provide direction for probation officers, youths, and families throughout the period of supervision. As such, they are a very valuable element of the JJSES and the centerpiece of supervision for juveniles. Comprehensive case plans focus on reducing assessed risk factors that will have the greatest impact on recidivism, take into account the juvenile’s strengths, identify the juvenile’s triggers and customize approaches based on traits such as culture, gender, language, disabilities and mental health. In essence, the goal of a case plan is to identify and prioritize the domains that will have the greatest impact on future delinquent behavior, appropriately match services to those areas, and do so in the right dosage and intensity. Case plans should be developed by probation officers in conjunction with youth and their families. Effective case plans are dynamic; they are expected to change over time.

### ***Integration of YLS/CMI***

An essential function of a juvenile probation officer is to gather information that the department and stakeholders need in order to address the goals of community protection, competency development, and accountability—in ways that provide balanced attention to the interests of the juvenile, the victim, and the community. Gathering information related to community protection entails asking one set of questions:

- What are the youth’s risk score and level?
- What must the probation department do to manage and minimize the risk?
- What level of external control is required?

Gathering information relevant to competency development goals requires getting answers to another set:

- What, according to the YLS/CMI, are the youth’s specific criminogenic risk factors?
- What specific interventions are most appropriate to address a youth’s most influential needs?
- What skill development activities are necessary to improve competencies and increase the juvenile’s decision to lead a prosocial lifestyle?
- What academic and/or work force development activities would benefit the youth?

Finally, key questions related to the goal of accountability include:

- Who was affected by the youth’s behavior?
- How will the youth acknowledge and repair the harm caused?

This information-gathering culminates in a recommendation for the dispositional option that best serves the interests of the juvenile, victim and community in the least restrictive way.

## **§ 9-5 Dispositional Hearings**

As was noted above, in Pennsylvania, once the court has found that a juvenile committed the delinquent acts alleged in the petition and adjudicated the juvenile delinquent,<sup>15</sup> it may commence the dispositional hearing immediately or schedule a later hearing. In any case, to the extent possible, the same judicial officer who presided over the adjudicatory hearing should preside over the dispositional hearing.<sup>16</sup> Like other hearings in delinquency cases, the dispositional hearing must be recorded, and the recording must be transcribed if the court orders it, either party requests it, or there is an appeal.<sup>17</sup> Under certain circumstances, the court may utilize advanced communication technology for the appearance of the juvenile or witness.<sup>18</sup> The attorney for the Commonwealth must attend the hearing.<sup>19</sup> As described previously, all juveniles are presumed indigent (see § 8-7, “Hearing Procedures”). If a juvenile appears at any dispositional hearing without counsel, the court must appoint counsel for the juvenile. A waiver of right to counsel may not be accepted by the court for a dispositional hearing.<sup>20</sup>

Generally, unless the parties agree otherwise, the dispositional hearing must be held within twenty days of the ruling on offenses if the juvenile is in detention, or otherwise within sixty days.<sup>21</sup> Courts are authorized to order detention or other appropriate supervision of

juveniles in the meantime, but scheduling priority must be given to cases in which juveniles are detained or otherwise removed from their homes.<sup>22</sup>

Although the practice of dealing with the disposition issue at a separate, postponed hearing— sometimes referred to as “bifurcation”—is generally preferred by standards-setting agencies, the Juvenile Act does not mandate bifurcated hearings. In fact, there may sometimes be good reasons for proceeding immediately to the disposition issue rather than putting it off—as when the issues are not contested, the court is thoroughly familiar with the background, and all the key parties (including the victim) have already been assembled. Nevertheless, one advantage of bifurcation is that it allows the probation department time to conduct its investigation *after* the juvenile has been found to have committed the delinquent acts alleged, when a social study is clearly necessary, rather than before, when it may not be. Bifurcation serves to protect the privacy of the juvenile and his family from unwarranted intrusions, while effectively eliminating the danger that the adjudication process will be tainted by the sort of unfairly prejudicial information that social studies often uncover.

Although the Juvenile Act does prohibit courts from directing the advance (pre-adjudication) preparation of social studies in disputed cases, probation departments can and do conduct routine pre-adjudication social studies with the informed consent of juveniles and their families. In any such case, the judge must be sure to (1) refrain from looking at the social study report prior to a contested hearing on whether the juvenile committed the acts alleged in the petition and (2) allow sufficient time before the commencement of the dispositional portion of the hearing to digest the information in the social study report.

### ***Evidence***

The Juvenile Act provides that in disposition hearings (which the Rules refer to as dispositional hearings) “all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition.”<sup>23</sup> This extremely relaxed evidentiary standard—making “helpfulness” the test of admissibility—is somewhat qualified by the right of “parties or their counsel...to examine and controvert written reports so received and to cross-examine individuals making the reports.” So, for example, counsel for the juvenile is clearly authorized to demand that the probation officer who authored a social study report submit to questioning regarding the factual basis for statements and conclusions in the report.



However, insofar as information gathered by the probation officer was “given in confidence,” the law provides that the original sources “need not be disclosed” and thus cannot be effectively cross-examined. Needless to say, in weighing such information, the court should appropriately discount its probative value to reflect the fact that its origin is undisclosed and untested.<sup>24</sup>

Before deciding disposition, the court shall give the juvenile and the victim the opportunity to be heard.<sup>25</sup>

### ***Required Findings and Conclusions***

In accordance with the Juvenile Act, 42 Pa.C.S.A. §6352(c), prior to entering an order of disposition, the court must state its disposition and the reasons for it on the record in open court, together with the goals, terms and conditions of that disposition. If the child is to be committed to out-of-home placement, the court must state the name of the specific facility or type of facility to which the child will be committed and its findings and conclusions of law that form the basis of its decision, including the reasons why such commitment was determined to be the least restrictive placement that is consistent with the protection of the public and best suited to the child’s treatment, supervision, rehabilitation and welfare. The court must also make findings as to whether any evaluations, tests, counseling or treatments are necessary for the juvenile and any findings necessary to insure the stability and appropriateness of the juvenile’s education. Lastly, the court must enter any findings necessary to identify, monitor, and address the juvenile’s needs concerning healthcare and disability, if any, and if parental consent cannot be obtained, authorize any necessary evaluations and treatment.<sup>26</sup> If necessary, the court may appoint an educational decision maker.<sup>27</sup>

Note that, in cases involving allegations of dependency as well as delinquency, the court must make additional findings before it can order a juvenile placed outside his home.<sup>28</sup> (See sidebar, “Dependency Dispositions,” §9-9.)

### ***Appeal Rights Notice***

Pursuant to Pa.R.J.C.P. 512.C, prior to the conclusion of the dispositional hearing, the court must determine on the record that the juvenile has been advised of the right to file a post-dispositional motion and appeal, of the time limits for the post-dispositional motion and appeal, of the time limits within which the post-dispositional motion must be decided, and of the requirement that, whether or not the juvenile elects to file a post-dispositional motion, only issues raised before and during adjudication will be deemed preserved for

appeal. When the juvenile is tendering an admission to a delinquent act pursuant to Pa.R.J.C.P. 407, it may be useful and efficient to have the juvenile and his attorney complete a written acknowledgment of the post-dispositional procedures described in Pa.R.J.C.P. 512.C at the same time as the written admission colloquy required by Rule 407.C. In that manner, the court will already have made an on the record determination that the juvenile has been advised of all of the applicable post-dispositional procedures.

### ***Dispositional Order Requirements***

Pursuant to Pa.R.J.C.P. 515, the court's dispositional order must provide balanced attention to the protection of the community, accountability for the offenses committed, and development of competencies to enable the juvenile to become a responsible and productive member of the community. In addition to all of the findings required by 42 Pa.C.S.A. §6352(c), above, as well as the date of the order and the judge's signature and printed name, the order must state whether the case is one of those for which the public may have access to records and information under 42 Pa.C.S. § 6307 (b)(1)(i). If fingerprints and photos have not already been taken, the order must also direct the juvenile to submit to fingerprinting and photographing by the law enforcement agency that submitted the written allegation.

The dispositional order must likewise include the amount of any restitution to be paid by the juvenile, the person to whom restitution is owed, and any payment schedule. If the juvenile has a guardian, the order must state any conditions, limitations, restrictions or obligations imposed upon the guardian. Lastly, the court must forward the case disposition to the JCJC in accordance with its requirements.

Pa.R.J.C.P. 516 requires that the court serve the dispositional order on the juvenile, the juvenile's guardian, the juvenile's attorney, the attorney for the Commonwealth, the juvenile probation officer and any agency directed to provide treatments.

### **§ 9-6 Victim Input at Disposition**

Victims of juvenile offenders have both a legal and a moral right to be heard and to have their views considered by the court at disposition. In fact, an object of the disposition is to require the juvenile to repair the harm done by the offense. Consequently, the victim will be an indispensable contributor to the process.

The victim of a juvenile's crime is required to receive notice of the dispositional hearing.<sup>29</sup> In addition, the victim, counsel for the victim, and any other person accompanying a victim for his or her assistance, have the right to attend the dispositional hearing.<sup>30</sup> Before deciding the disposition of the case, the court must give the victim the opportunity to be heard, and to submit an oral and/or written victim impact statement if the victim so chooses.<sup>31</sup> The Crime Victims Act explains that the victim impact statement is to detail the physical, psychological and economic effects of the crime on the victim and the victim's family and specifically requires the court to consider the victim impact statement in determining disposition.<sup>32</sup> If the victim is not present at the hearing, and the court determines that the juvenile is not in need of treatment, supervision or rehabilitation, and terminates jurisdiction, the victim is entitled to be notified of this outcome.<sup>33</sup>

Among the primary responsibilities of a juvenile court judge, in a case in which there is an identifiable victim, is to ensure that every effort is made to secure a written victim impact statement before the disposition hearing. Every Pennsylvania county should have a routine

***Victim input can not only inform dispositions — it can help juveniles to understand the consequences of their actions.***

procedure for collecting impact statements from victims of juvenile crime. If a victim impact statement is not available at disposition, the judge should make it a point to find out why, and if warranted, may delay proceedings until one is secured.

If the victim is present in the courtroom the judge should convey the importance of victim input in the disposition process. Many victims who are terse or under-responsive on paper are capable of providing much more information orally, in response to sensitive questioning, particularly once they understand how important their statement is to the court. The following series of general questions<sup>34</sup> may be used to elicit or amplify oral or written victim impact information:

- How did the offense affect you and those close to you? What psychological effects did it have? What effects has it had on your relationships with others?
- What physical injuries or symptoms have you or those close to you suffered as a result of the offense?
- How did the offense affect you economically? How has your ability to work, earn a living, run a household, go to school, etc., been impacted?
- How do you and those close to you feel about having been victimized?

- How could the juvenile help to repair the harm done to you?
- Is there anything else you'd like to tell the court?

This list is not exhaustive, of course. Ideally, probes and follow-up questions should be improvised to fit the circumstances of the case. All written victim impact statements should include restitution claim forms, so that victims can itemize direct financial losses. But victim impact statements can do more than inform the court. They can help juveniles to understand and feel the consequences of their actions. Hearing and thoroughly amplifying victim impact evidence in disposition proceedings can sometimes help the juvenile as much as the victim.

Judges should bear in mind that these benefits can be had even in hearings from which victims are absent. A judge's simple reading in open court from a victim impact statement can have a profound impact on a juvenile, especially if the judge makes creative use of the text as a teaching tool—pausing for emphasis, asking pointed questions, stressing significant facts or turns of phrase. Even the barest written statement can reveal, sometimes very poignantly, the humanity of its author. This is a vital lesson that juvenile offenders must grasp before it's too late. Judges, as teachers, can help them, and should not waste this opportunity.

Finally, judges have a responsibility not only to weigh victim input in disposition decision-making, and to choose dispositional options with victim concerns in mind, but to make it clear that they are doing so. Disposition decisions should be explained to the victim. The importance of the victim's statements, the bearing that it had on the decision, should be explicitly acknowledged. If a disposition suggested by the victim—such as commitment—is not consistent with BARJ, the judge should make an effort to explain why this is so. Above all, the judge must avoid leaving the impression that the harm suffered by the victim was not considered serious enough to merit a serious penalty.

What about when there is no individual victim? As far as possible, the judge in a case involving “only” institutional or communal victimization should nevertheless keep in mind many of the above considerations regarding sensitivity to victims. There may be no one person<sup>35</sup> to fill out a statement or assert rights under the Crime Victims Act—but the juvenile still needs to understand that people have suffered as a result of his actions, and the judge still needs to keep those people in mind in fashioning an appropriate disposition.

## § 9-7 Securing Parental Cooperation and Involvement

The Juvenile Act gives juvenile court judges ample power to secure the cooperation and involvement of parents in efforts to treat, supervise and rehabilitate juveniles. A juvenile's parents, guardians or custodians may be ordered to attend all delinquency proceedings related to him, required to participate in community service, restitution, counseling, therapy, educational and other programs ordered for him, and held in contempt if they fail to comply.<sup>36</sup> A separate statute even empowers juvenile court judges in delinquency proceedings to impose monetary liability directly against the parents of juveniles who commit tortious acts, up to a limit of \$1,000 per person injured or a total of \$2,500 per tortious act.<sup>37</sup>

But efforts to bring parents into the adjudication and disposition process should not be limited to forms of compulsion. Often, what the hard-pressed parent of a delinquent juvenile

***Parents should be actively involved in the effort to turn their children around.***

needs is the court's understanding, and some tangible help. Results of one national survey suggested that few juvenile courts make adequate efforts either to encourage parental involvement in delinquency proceedings or to offer parents the help they need.<sup>38</sup> Among the study's recommendations:

- ***Educate.*** Develop written or audio-visual materials to educate parents about the court process, the importance of their involvement in court proceedings related to their children, and the critical role they play in reducing delinquency.
- ***Lay groundwork.*** Take affirmative steps to involve parents from the beginning. Courts may employ interpreters or court liaison officers to assist parents at hearings, or furnish reception areas with information tables offering brochures, fact sheets, and service referral information targeted at parents of juveniles.
- ***Take down barriers.*** Remove barriers that may be preventing parents from coming to court—offer help with transportation, meals, child care, etc. Conduct night court sessions so that working parents can more easily attend.
- ***Ask for help.*** Enlist volunteer help from parents who have cooperated with the court in their own children's cases, as a way to assist and accommodate parents coming after them.

- ***Reach out from the bench.*** In hearings, engage parents from the bench—solicit their views, listen to their explanations, impress upon them how critical their cooperation is.
- ***Bring in fathers.*** Make special efforts to contact and secure the involvement of noncustodial parents who may wish to become more active in their children’s lives. Even fathers who have not taken much responsibility for their children in the past may be willing and able to provide help in a crisis—including financial and other support, additional structure and supervision, participation in therapy or counseling, perhaps even an alternative home—and this may be just what some juveniles embarking on delinquent careers need. At the very least, judges in delinquency proceedings should prod their probation departments to explore this avenue in appropriate cases. Information about an absent parent’s attitude, availability and willingness to help the juvenile should be routinely included in social reports, for instance.
- ***Establish/expand programs.*** Establish or strengthen service referral, family counseling, parent-child communication and parenting education programs. Judges might consider not only ordering parents to attend classes designed to strengthen their parenting skills, but visiting the classes themselves as a way of underscoring the importance the court attaches to parenting education.

Parents, and any other involved adult family members, need to be informed about assessment results and treatment objectives. They should be engaged in identifying and supporting individual goals for the juvenile and informed regarding the juvenile’s progress. The core partnership with the family may also be enhanced by offering them supports, such as mental health services and recreational activities. For juveniles who require placement, keeping them close to their homes will give them opportunities to repair and renew family relationships and to practice skills that will help them address challenges they may face upon release, thereby reducing the chances of recidivism.

## **§ 9-8 Disposition Options in General**

In choosing appropriate dispositions in delinquency cases, a good juvenile court judge does much more than mechanically match offenders with a short list of programs. Every juvenile, every family, every victim, and every offense is in a sense unique. What the Juvenile Act requires at disposition is that judges acknowledge and act upon that

uniqueness—that they seek the appropriately measured judicial response to juvenile wrongdoing in every case. As has been stressed throughout this work, this involves more than anything else a blend of individualization, restraint, and balance: finding the mix of sanctions, conditions, restrictions and services that will do the best job, under all the circumstances, of protecting the community, imposing accountability, and addressing and correcting whatever emotional or other problems, skill deficits, or thinking errors have gotten the juvenile into trouble—all at the same time.

Of course, not every jurisdiction has an adequate range of dispositional resources available to it. And not all available dispositional programs deliver in practice what they promise on paper. The art of disposition-making in the real world necessarily involves

***Judges should never lose sight of their ultimate responsibility for the effectiveness of the dispositions they impose.***

improvisation and compromise. But judges should beware of compromising too much, or of losing sight of their ultimate responsibility for the effectiveness of the dispositions they impose. Over time, they have a positive duty to do all of the following:

- ***Become familiar with disposition programs.*** Judges should familiarize themselves with the methods and approaches of the various programs to which local youth are referred, their goals and philosophies, the funding mechanisms that drive and restrain them, and their actual record of effectiveness with various kinds of offenders. Ideally, judges should visit program sites in person, meet the people that operate them, and ask and answer questions, both in and out of court. How well do they seem to understand the youths they are working with here? What sorts of assessments do they rely on? How much contact do the degreed professionals on the letterheads have with the juveniles themselves? If it is not possible for judges to visit programs personally, they should insist that probation staff do so, that they take the same sort of skeptical interest in behind-the-scenes conditions, and that they regularly report on what they see.
- ***Learn from dispositional successes and failures.*** In reviewing and following up on their own dispositional orders, judges should keep careful track of what has worked and what hasn't, who has thrived in placements and who hasn't, where rehabilitative measures have succeeded and where they've failed, and what has made the difference. For better or worse, every disposition plan is a sort of experiment. Over time, many such experiments will yield advances in useful

knowledge—but only to judges who are both curious and humble enough to learn from them.

- ***Take the lead in disposition program planning and development.*** Judges must also exercise leadership when it appears necessary to change or expand the existing continuum of disposition options—to discard traditional approaches that aren't working and to muster resources, creativity and enthusiasm for new ones. This may call for lots of activity off the bench: speaking out in the community regarding the need for change, looking into the research literature on program effectiveness, monitoring program innovations in other jurisdictions, and participating in the county's planning and budgeting process, among other things.

### § 9-9 Option to Utilize Dependency Dispositions

Where appropriate, a court presiding over a delinquency case may also order any of the dispositions authorized for *dependent* children.<sup>39</sup> That is, the court may order family support and other services, a transfer of temporary legal custody to a relative, or placement in a foster home, among other dispositions.<sup>40</sup> In order for the court to employ a dependency disposition, it is not necessary that the juvenile be found—or even alleged—to be a “dependent child” within the meaning of 42 Pa.C.S. §6302. However, as is discussed more fully elsewhere (see §3-2 “Basic Juvenile Justice Structure and Funding” above), if a juvenile being removed from his home is to qualify for federal benefits for out-of-home foster care under Title IV-E of the Social Security Act, the court must document its determination that (1) it would be contrary to the juvenile's welfare to allow him to remain at home and (2) reasonable efforts were made to eliminate the necessity of removing him from the home. In addition, the juvenile's case must be determined by the court to be subject to “Shared Case Responsibility,” between the juvenile probation department and the county children and youth agency (C&Y), with the probation department having primary responsibility for addressing delinquency issues and the C&Y agency being responsible for providing or arranging for family support or other services typically associated with dependency cases.

### § 9-10 Probation

By far the most commonly used disposition option available to Pennsylvania juvenile courts in adjudicated delinquency cases is probation supervision “under conditions and



limitations the court prescribes.”<sup>41</sup> This is as it should be. Primary reliance on probation and probation officers—to work with the juvenile’s family and community to guide, control, supervise and rehabilitate juvenile offenders at home—has been a distinctive feature of the juvenile court approach to delinquency since the beginning of the juvenile court movement.<sup>42</sup> It’s one of the principal reasons we have juvenile courts.

In Pennsylvania, judges are given broad latitude in setting particular conditions, restrictions, and other individualized features of probation dispositions. The Juvenile Act mentions some possible conditions of probation. But there is an almost infinite variety of possibilities, including, but not limited to, fine/restitution obligations, participation in constructive service or education programs, curfews, restrictions on travel or association, apology letters, victim awareness classes, drug and alcohol testing, attendance at day or evening reporting centers, and participation in counseling, mentoring, tutoring, and other educational or treatment programs. Judges should make creative use of this flexibility to meet accountability, community protection, and competency development goals.<sup>43</sup>

***Probation conditions should be active, specific, enforceable, and clearly understood.***

But this is not to say that judges should pile on the probation conditions. For one thing, extensive laundry lists of conditions tend to create enforcement problems for probation departments. And “standard” conditions and restrictions that are general enough to apply to every juvenile may in practice be meaningless. In any case, if the probation department has not yet had a chance to get a detailed assessment of the youth and his family, it may not be possible for the court to impose precisely targeted conditions at disposition. It may be more practical for judges to attempt to set goals for probationers, leaving it to probation departments to determine how those goals are to be achieved.

In general, probation conditions should be:

- ***Active.*** Wherever possible, probation should demand *activity* on the part of the juvenile, rather than mere compliance with passive (“thou shalt not”) conditions.
- ***Specific.*** The probation supervision plan should specify concrete goals and measurable behavioral objectives, with activities and action steps designed to meet them.
- ***Enforceable.*** The kinds of conditions that are and are not likely to be enforceable are discussed at § 10-2.

- ***Clearly understood.*** At disposition, judges should use active listening techniques to make sure that juveniles and parents understand both what is expected of them and what will happen in the event of noncompliance.

In a broader sense, of course, it is important that probation dispositions be clearly understood by victims and the community as well. Especially for the benefit of victims in attendance at disposition hearings, judges should take care to explain what probation really is, and what purposes it is intended to serve.

### ***Probation Supervision***

Effective probation supervision techniques teach and reinforce prosocial behavior through working relationships marked by strong rapport. The probation officer seeks to enhance the intrinsic motivation of the juvenile, using strength-based approaches, motivational enhancement skills, and the appropriate use of rewards and sanctions.

The essence of effective probation supervision is to foster positive adjustment and behavior. Case plans must provide a constructive blueprint to change behavior and restore those harmed by past offenses. The probation officer uses the case plan as a roadmap for evidence-based supervision and interventions that reflect the goals of balanced and restorative justice, such as the use of cognitive behavioral worksheets, referral to treatment services, and development of a restitution plan.

The JJSES provides a strategy and suggests tools, such as the YLS/CMI, service matrices, placement guidelines, and SPEP, for more accurately matching youth to the most appropriate service. The strategy and tools help jurisdictions better identify the moderate to high risk youth whose cases are more likely to require formal court processing. (See Ch. 2 and discussion of YLS/CMI at § 4-7, “Intake Conferences.”)

## **§ 9-11 Restitution and Community Service**

The Juvenile Act authorizes judges at disposition to order “payment by the child of reasonable amounts of money as fines, costs or restitution...as part of the plan of rehabilitation....”<sup>44</sup> A dispositional order imposing restitution must specify the specific amount of restitution to be paid, the person to whom it is to be paid, and any payment schedule determined by the

***All juvenile courts should have formal restitution and community service programs for juvenile offenders.***

court.<sup>45</sup> A separate provision permits an order of probation to “include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court....”<sup>46</sup>

Restitution and community service are two of the court’s most basic tools for holding juvenile offenders accountable. Requiring offenders to pay in some way for the damage they have done gives them an opportunity to understand the consequences of their wrongdoing and accept and acknowledge responsibility for it. When the payment is made to victims, it helps to compensate them for their losses and assure them of the system’s responsiveness to their needs. When it takes the form of community service, it has the potential not only to benefit the public in tangible ways but to help reconcile the juvenile with the community he has offended.

The law imposes a number of basic limitations on restitution/work service dispositions:

- **Actual damages.** A restitution obligation imposed on a juvenile offender may not exceed the actual damages caused by his acts. Information about victim losses is usually gathered from the victim impact statement.
- **Ability to pay.** Restitution must also be reasonably related to the juvenile’s ability to pay.<sup>47</sup> Ideally, the disposition order should address the factors that limit the offender’s ability to pay—for example, requiring an unemployed and unskilled juvenile to participate in training and job readiness programs as well as to pay restitution. But every offender with an identifiable victim can be made to pay something.
- **Hours and wages.** Work service programs must comply with the Child Labor Law<sup>48</sup> and pay no less than the minimum wage.
- **Percentage of earnings.** Work service programs must permit juveniles to keep at least 25% of their earnings “in order to promote positive reinforcement for the work performed.”<sup>49</sup>
- **Suitability.** The court must “take into consideration the age, physical and mental capacity of the child” in imposing work service as well.<sup>50</sup>
- **Duration.** The Juvenile Act specifies that any work service order must be “limited in duration consistent with the limitations in section 6353 (relating to limitation on and change in place of commitment)”<sup>51</sup> —which appears to rule out service

obligations that would last longer than four years or the maximum period of an adult sentence for the same offense, whichever is less.

### ***Victim Compensation and Collection Issues***

The Juvenile Act provides that, in addition to ordering a delinquent child to make restitution to a crime victim, the court may include contributions by the child to a “restitution fund” established by the president judge. In jurisdictions that have established such programs, crime victims can be reimbursed for financial losses immediately from the “restitution fund” and the delinquent child can then “work off” his obligation over time by completing a particular community or work service obligation. Under the JCJC Standards Governing the Administration of Restitution Funds, any court that collects such “contributions” from juveniles must establish a fund for the deposit of the contributions, with disbursements from the fund only to be made to reimburse crime victims in accordance with written guidelines issued by the President Judge.<sup>52</sup> The guidelines must specify that no disbursements from the fund may be made without the signatures of two persons designated by the President Judge. Funds must be audited annually, and an annual report must disclose individual and aggregate data on payments to and disbursement from the fund.

At or around the time restitution obligations are imposed, victims of juvenile offenders should receive a clear explanation of local restitution collection and disbursement timetables and procedures. Victims should also be informed that court-ordered restitution is only one of several sources of compensation that may be available to them, including civil actions for damages and claims on the state’s Crime Victims Compensation Fund. (See sidebar, “Pennsylvania’s Victims Compensation Fund.”)

The Juvenile Act requires the court to retain jurisdiction over a juvenile who has been ordered to pay restitution, until it is paid or the juvenile reaches age 21. Unpaid restitution at that time “shall continue to be collectible” as a judgment in favor of the county probation department under the Juvenile Act provision relating to collection of restitution, court costs, fines, and penalties.<sup>53</sup> Under the JCJC Standards Governing the Collection and Disbursement of Restitution, each county must have a written policy requiring that judgments for any unpaid restitution be routinely filed when jurisdiction terminates. At least one-half of any amount collected in this manner must be applied to the payment of restitution to the victim, as opposed to fees, costs, fines, and other obligations.<sup>54</sup> However, as a matter of good practice, all funds collected should be applied to the restitution obligation until it is fully satisfied.

## **SIDEBAR**

### **Pennsylvania's Victim Compensation Fund**

Victims of crime in Pennsylvania, including victims of juvenile offenders, may receive compensation under the state's Victims Compensation Assistance Program ("VCAP") for medical and funeral expenses, the costs of counseling, lost earnings or support caused by the crime, and other specified expenses such as child care and transportation not reimbursed by other sources. Payments to victims are made from a restricted revenue account established by state law in 1976, funded in part by penalty assessments against offenders—including at least \$25 from every juvenile who is the subject of a consent decree or an adjudication of delinquency.<sup>55</sup>

The maximum award for a single injury is \$35,000, and no compensation is available for pain and suffering or for stolen or damaged property. In general, claims on the Crime Victims Compensation Fund must be filed with the Pennsylvania Commission on Crime and Delinquency's Victims Compensation Division within two years of the crime, but some exceptions are made for victims younger than 18 years.

For more information, contact:

Victims Compensation Assistance Program  
P.O. Box 1167 Harrisburg, PA 17108-1167  
(800) 233-2339  
Secured Fax (717) 787-4306  
<http://www.pccd.state.pa.us/>

**END SIDEBAR**

## ***Community Service Programs***

When imposing a community service disposition, whether paid or unpaid, the Juvenile Act requires that the court “specify the nature of the work” as well as “the number of hours to be spent performing the assigned tasks....”<sup>56</sup> Judges would do well to give some thought to the quality as well as the quantity of the work assigned. Community service has enormous potential as a way to teach juveniles valuable lessons while reintegrating them into the community they have offended. But this potential often goes unrealized in programs that simply impose punitive make-work, without any attempt to expose juveniles to role-models and mentors or to help them acquire the skills and habits they will need to become productive citizens. In contrast, the best community service programs do all of the following:<sup>57</sup>

- ***Involve community members.*** Good community service programs approach actual members of the community, both to find out what work needs to be done and to enlist volunteers. They make efforts to explain and publicize their efforts in the community, through informational brochures, speaker programs, and videos. Rather than put young people to work in back offices stuffing envelopes, they assign them to high-profile work—landscaping projects or graffiti clean-up in neighborhood business districts—with support and assistance from community businesses and volunteers, and contact with elder role models.

***Do work that is valued by community.*** Juveniles across Pennsylvania have cut firewood for needy local families, tended community gardens, restored trails and stream beds under the supervision of conservation groups, worked with Habitat for Humanity to build homes—in other words, they have been performing work, that has proven to be beneficial to communities of need.

***Teach skills.*** A good community service initiative attempts to teach work habits, routines, and marketable skills that young offenders can bring to other jobs; thereby, helping to convert them from community liabilities into community assets.

- ***Lead to accomplishment and recognition.*** Wherever possible, juveniles performing community service should be allowed to work on projects until completion so that they can see, take pride in, and be publicly recognized for what they have accomplished.

## § 9-12 Placement

In cases requiring residential placement because of the risks posed by the juvenile, the basic goals of balanced and restorative justice remain the same. While a “balanced response” in such a case may require an emphasis on protecting the community, juvenile justice practitioners are still duty-bound to address basic competencies, apply evidence-based practices to reduce dynamic risk factors, and address accountability to victims. All jurisdictions must ensure that they have a range of options available for youth—from least to most restrictive—and that residential placement occurs after consideration of least restrictive alternatives. Research and experience demonstrate that the many youth placed in residential settings do not need to be in secure facilities to ensure community protection.

The court may commit a juvenile who has been adjudicated delinquent to “an institution, youth development center, camp, or other facility for delinquent children which is operated under the direction or supervision of the court or other public authority and approved by the Department of Human Services or (assuming the juvenile is at least 12) to a Youth Development Center or Youth Forestry Camp operated by the Department of Human Services.<sup>58</sup> However, in opting for commitment, the court may not impose more than “the minimum amount of confinement that is consistent with the protection of the public and the rehabilitation needs of the child.”<sup>59</sup> Moreover, it may not commit a juvenile to a facility “used primarily for the execution of sentences of adults convicted of a crime.”<sup>60</sup> And it may not *initially* commit a juvenile for more than “four years or a period longer than he could have been sentenced by the court if he had been convicted of the same offense as an adult, whichever is less.”<sup>61</sup> However, the “initial commitment may be extended for a similar period of time, or modified, if the court finds after hearing that the extension or modification will effectuate the original purpose for which the order was entered.”<sup>62</sup>

***The Juvenile Act clearly designates placement as a “last resort” disposition.***

In weighing the possibility of a disposition involving residential placement, a juvenile court judge should take into account the following basic principles:

- ***Placement is meant to be a “last resort” disposition.*** The Juvenile Act dictates the strongest possible preference for noncustodial dispositions over custodial ones. Among the Act’s stated purposes is to “preserve the unity of the family whenever possible,” and to respond to delinquency through measures that operate “in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety.”<sup>63</sup>

Generally, consideration of placement is warranted only in cases involving juveniles who have committed very serious offenses, who present a clear danger to themselves or others, who have histories of failure under community supervision, whose home lives are such as to render removal imperative, or whose treatment needs necessitate specialized institutional care.

- ***The least restrictive placement is required.*** One of the strengths of Pennsylvania’s juvenile justice system is its exceptionally broad range of public and private residential facilities for adjudicated youth. These include small, private group homes that afford their residents a home-like atmosphere and a chance to remain in the community while working or attending school; larger and more remote residential facilities, both public and private, that provide restricted access, education, and 24-hour direct supervision; and locked, fenced facilities and secure treatment units operated by the PA Department of Human Services Bureau of Juvenile Justice Services. In order to make efficient use of this spectrum of options—and in keeping with the general principle behind the Juvenile Act’s specific requirement that delinquency dispositions impose “the minimum amount of confinement” necessary—a court must impose not only the briefest but also the least restrictive placement that is consistent with public safety and the juvenile’s rehabilitative needs. If a juvenile is to be committed to out-of-home placement, both the Juvenile Act and Rules mandate that the court state on the record, in open court, the name of the specific facility or type of facility to which the juvenile will be committed and the court’s findings and conclusions of law that formed the basis of its decision, including the reasons why commitment to that facility or type of facility was determined to be the least restrictive placement that is consistent with the protection of the public and best suited to the juvenile’s treatment, supervision, rehabilitation and welfare.<sup>64</sup>
- ***Familiarity with residential programs is indispensable to good disposition decision-making.*** As has already been pointed out, juvenile court judges have an ongoing obligation to investigate the methods, programming, and success rates of residential facilities to which local youth are sent, to visit them personally if possible, and to ground all disposition decisions in a realistic view of what these facilities are capable of providing.
- ***“Aftercare” or “reentry” planning must begin as soon as the placement decision is made.*** Finally, the moment the court makes a decision to place a juvenile in an institution or other residential setting, it should also set in motion the process of



planning and preparing for his return to the community. Juvenile offenders cannot be “sent away” and forgotten. It is up to judges to insist that probation departments stay in close contact with institutionalized juveniles, monitor their progress throughout their commitments, and work closely with placement facilities on aftercare planning. In the same vein, victims must not be forgotten either. Under the Crime Victims Act, any personal injury crime victim who requests, is entitled to receive prior notice of a juvenile offender’s release from placement.<sup>65</sup> (See § 10-7, “Monitoring and Planning for the Return of Juveniles in Placement,” for a more detailed discussion of these issues.)

## **§ 9-13 Dispositions Involving Special Populations**

Juvenile court judges are responsible for ensuring that court-involved juveniles who may be mentally ill, drug or alcohol dependent, or otherwise in need of therapeutic intervention are adequately screened and identified at the earliest possible point in the system. Their dispositions should be based on good clinical assessments, and providers of court-ordered treatment should be held accountable for delivering the services they promise. When fashioning dispositions for juveniles with special needs of this kind, judges should not hesitate to seek the advice and guidance of the Juvenile Court Judges’ Commission and of the court liaison staff of the Bureau of Juvenile Justice Services in the Department of Human Services.<sup>66</sup> In addition, for more information about the problems and needs of special populations of juveniles, judges may contact the specialized organizations and agencies listed at the end of each of the following sections.

### ***Juveniles Needing Mental Health Treatment***

Research suggests that rates of mental illness among young people in the juvenile justice system are at least twice as high as those in the general population. According to one estimate, at least one in five youths who comes in contact with the system has a serious mental health disorder that impairs his functioning and requires professional treatment.<sup>67</sup>

A special Juvenile Act provision<sup>68</sup> authorizes Pennsylvania juvenile courts to resort to the civil commitment procedures of the Mental Health and Mental Retardation Act of 1966<sup>69</sup> or the Mental Health Procedures Act<sup>70</sup> whenever, “at a dispositional hearing of a child found to be a delinquent or at any hearing, the evidence indicates that the child may be subject to commitment or detention under” either of those laws. Briefly, the Mental Health and Mental Retardation Act authorizes a court, following a hearing on a petition alleging that a

person is “in need of care or treatment by reason of...mental disability,” to order commitment of a mentally retarded person for care and treatment.<sup>71</sup> The Mental Health Procedures Act likewise authorizes court-ordered examination and treatment of mentally ill people for periods of various lengths, subject to strict due process safeguards.<sup>72</sup>

Juvenile court judges should be aware of the importance of early identification of juveniles with mental health issues. In individual cases, judges may of course order physical or mental examinations of juveniles at any time during which delinquency proceedings are pending.<sup>73</sup> But mental health screening must be a routine practice if it is to identify all juveniles with unmet mental health treatment needs.

### **Screening Instruments**

Fortunately, several inexpensive screening instruments are now available for use at intake, in detention, or as part of pre- or post- disposition assessments, to help identify candidates for further professional evaluation, counseling, investigation or referrals. Some examples of behavioral health screening instruments that are used at probation intake or in detention include:

- ***Massachusetts Youth Screening Instrument: Second Version*** (MAYSI~2; Grisso & Barum, 2006): a 52-question self-report screening instrument that measures symptoms on seven scales pertaining to emotional, behavioral, or psychological disturbance, including suicide ideation. This tool has been examined in more than 50 research studies, and possibly the only tool with national norms.
- ***Suicide Ideation Questionnaire*** (SIQ; Reynolds 1988): a 25-item self-report screening instrument used to assess suicidal ideation in adolescents. It can be administered individually or in a group setting.
- ***Global Appraisal of Individual Needs-Short Screener*** (GAINS-SS; Dennis, Scott, Funk, & Foss, 2005): a 20-item behavioral health screening tool designed to identify adolescents in need of more detailed assessment for substance use or mental disorder. Many studies have been conducted to demonstrate that this tool accurately identifies drug and alcohol problems.
- ***Voice-Diagnostic Interview Schedule for Children*** (Voice-Disc; Wasserman, McReynolds, Fisher, & Lucas, 2005): a self-report computerized tool based on the DSM-IV that produces computer assisted diagnoses. This instrument can take up to 1 hour to complete, yet it is often classified as a screen because a follow-up assessment is recommended to confirm any diagnosis.

## Assessments

A behavioral health assessment normally involves a more in-depth, comprehensive process and may require specially trained or credentialed staff. There are multiple options for instruments that may be used as part of a more comprehensive assessment. These instruments may require administration by clinically trained or credentialed staff and may be included as part of a psychological and/or psychiatric evaluation. The following are used in youth systems and have varying degrees of research to support their use:

- ***Child and Adolescent Functional Assessment Scale*** (CAFAS; Hodges, 2000): a functional assessment that rates youth on the basis of the adequacy and deficits in functioning within life domains such as home and school and with regard to potential problem areas such as substance use or self-harming behavior. It was developed to assist in identifying those individuals with “serious emotional disturbances” for the purposes of determining service eligibility. A screening version of this assessment – the *Juvenile Inventory for Functioning* – has been created and is currently undergoing validation.
- ***Child and Adolescent Needs and Strengths-Comprehensive*** (CANS-C; Lyons, Griffin, Fazio, & Lyons, 1999): the CANS has several versions. Although this tool collects information about a youth’s mental health problems and risk, it does not measure its characteristics, but rather provided a mechanism to support consistent communication about a youth’s service needs and level of functioning. It is considered a needs assessment tool that documents functioning in several domains, including substance abuse, mental health, other risk behaviors, and caregiver needs. It has some reliability evidence.
- ***Achenbach System of Empirically Based Assessment*** (ASEBA; Achenbach & Rescorla, 2001): formerly known as the *Child Behavior Checklist*: a widely studied and used 118-item self-report form focusing on eight behavioral and problem dimensions that can be grouped into two broader types of pathology: “externalizing” (outward expression) and “internalizing” (inward feelings and thoughts). It is completed by the youth, parents, or teachers.
- ***Behavioral Assessment System for Children*** (BASC-2; Reynolds & Kamphaus, 2004): a self-report tool that has different versions for the adolescent, parent/guardians, and teacher. The BASC-2 has different age appropriate versions ranging from childhood to young adulthood. It provides norm-based information

about problem areas including aggression, anxiety, attention problems, conduct problems, and depression.

- ***Practical Adolescent Dual Diagnosis Interview*** (PADDI: Estroff & Hoffman, 2011): a guided interview procedure that identifies suggested diagnoses related to substance abuse and mental disorders. It can be useful in mental health clinics, private practices, courts and juvenile justice facilities.

## **Psychological Evaluations**

Psychological evaluations are written, visual, or verbal tests and assessments administered to measure the cognitive and emotional functioning of children and adults. Psychological evaluations are used to assess a variety of mental abilities and attributes, including achievement and ability, personality, and neurological functioning.

In the juvenile justice system, psychological evaluations can be used to assist in the development and implementation of an appropriate juvenile court disposition and case plan, including treatment or interventions. All psychological or neuropsychological evaluations should be administered, scored and interpreted by trained professionals. Professional guidelines require that whoever administers the evaluation should advise the youth and his parents/guardians of the intended use of the results and to whom the results will be disclosed. An informed consent may need to be signed to share the results of the evaluation with other professionals.

Tests and assessments are two separate but related components of a psychological evaluation. Psychologists use both types of tools to help them arrive at a diagnosis and a treatment plan.

Testing involves the use of formal tests such as questionnaires or checklists. These are often described as “norm-referenced” tests. That simply means the tests have been standardized so that test-takers are evaluated in a similar way, no matter where they live or who administers the test. A norm-referenced test of a child's reading abilities, for example, may rank that child's ability compared to other children of similar age or grade level. Norm-referenced tests have been developed and evaluated by researchers and proven to be effective for measuring a particular trait or disorder.

A psychological assessment can include numerous components such as norm-referenced psychological tests, informal tests and surveys, interview information, school or medical records, medical evaluation and observational data. A psychologist determines what information to use based on the specific questions being asked.

For example, assessments can be used to determine if a youth has a learning disorder, is competent to stand trial or has a traumatic brain injury.

One common assessment technique is a clinical interview, in which a psychologist speaks to a youth about his/her concerns and history in order to observe how the youth thinks, reasons and interacts with others. Assessments may also include interviewing other people who are close to the client, such as family members or care givers.

Together, testing and assessment allow a psychologist to see the full picture of a youth's strengths and limitations.

For more information on psychological evaluations see the American Psychological Association website: <http://www.apa.org/helpcenter/assessment.aspx>

### **Psychiatric Evaluations**

A psychiatric evaluation is an assessment of a youth for serious emotional and/or behavioral problems, performed by a child and adolescent psychiatrist. A comprehensive psychiatric evaluation usually requires several hours over one or more visits with the youth and his/her parents. With proper consent, other significant individuals such as the family physician, school officials or other relatives may be contacted for additional information.

A comprehensive psychiatric evaluation frequently includes the following:

- Description of present problems and symptoms
- Information about health, illness and treatment (both physical and psychiatric), including current medications
- Parent and family health and psychiatric histories
- Information about the child's development
- Information about school and friends
- Information about family relationships
- Interview of the child or adolescent
- Interview of parents/guardians
- If needed, laboratory studies such as blood tests, x-rays, or special assessments (for example, psychological, educational, speech and language evaluation)

The child and adolescent psychiatrist then develops a formulation. The formulation describes the child's problems and explains them in terms that the parents and child can understand. The formulation combines biological, psychological and social parts of the

problem with developmental needs, history and strengths of the child, adolescent and family.

### **Further Information**

An online *Behavioral Health Services Resource Guide* for juvenile probation officers and other youth service professionals is available from the Behavioral Health Subcommittee of the Pennsylvania Council of Chief Juvenile Probation Officers:

[http://www.pachiefprobationofficers.org/docs/BH\\_Services\\_Guide\\_1-15-16.pdf](http://www.pachiefprobationofficers.org/docs/BH_Services_Guide_1-15-16.pdf)

The Resource Guide was designed to provide basic information and then offer links to the websites of official and recognized agencies and organizations related to behavioral health that provide more comprehensive and detailed information.

For more information about the needs of court-involved youth with mental illnesses, contact the following organizations:

*Mental Health Association*

500 Montgomery Street, Suite 820

Alexandria, VA 22314

(703) 684-7722

(800) 969-NMHA

Fax (703) 684-5968

<http://www.mentalhealthamerica.net>

*Children's Mental Health Campaign*

335 Chandler Street

Worcester, MA 01602

[CMHC@MSPCC.ORG](mailto:CMHC@MSPCC.ORG)

*National Center for Mental Health and Juvenile Justice*

Policy Research Associates, Inc.

345 Delaware Avenue

Delmar, NY 12054

(866) 962-6455

<http://www.ncmhjj.com>

The Substance Abuse and Mental Health Service Administration

5600 Fishers Lane

Rockville, MD 20857

(877) 726-4727

<http://www.samhsa.gov>

### ***Drug and Alcohol-Dependent Juveniles***

Because many juveniles who get into trouble with the law have substantial drug and/or alcohol problems that play a major role in their delinquency,<sup>74</sup> every juvenile court should have policies providing for preliminary screening of juvenile offenders for alcohol and/or drug problems, comprehensive clinical assessments where they are needed, and effective monitoring and treatment programming. Moreover, individual judges must be alert and ready to respond to signs of substance abuse in the behavior and backgrounds of the young people referred to them.

In fashioning dispositions for drug or alcohol dependent juveniles, judges should make efforts to include the following features wherever possible:<sup>75</sup>

- *Frequent, random testing.*
- *Regularly-scheduled status checks/hearings.*
- *A graduated response* in which good behavior (or compliance with program requirements) is rewarded and bad behavior (noncompliance) results in progressively increasing sanctions and restrictions.
- *Integrated case management* connecting juvenile offenders with the services they need throughout their entire involvement with the juvenile justice system.
- *Continuing supervision* to address the threat of relapse and/or recidivism.

In appropriate cases, Act 53 of 1997 also authorizes the temporary involuntary commitment of a substance abusing juvenile without an adjudication of delinquency. Following a hearing on a petition from the parent or guardian of a juvenile who is dependent on drugs or alcohol but unable or unwilling to accept treatment services voluntarily, a juvenile court judge may order an involuntary treatment commitment in a facility that is set up to address those specific drug and alcohol needs of the youth.<sup>76</sup> (For an in-depth review of Act 53 procedures, see § 7-10, "Post-petition Alternatives to Adjudication.") However, judges should exercise caution in such instances, as unnecessary treatment of casual or experimenting teenage drug and alcohol users tends to make matters worse, not better.<sup>77</sup>

Special considerations apply to dispositions involving juveniles found to have driven under the influence of drugs or alcohol. A consent decree or disposition involving a juvenile who

has violated the DUI law<sup>78</sup> is subject to JCJC Standards Governing an Allegation of Delinquency Involving a Charge of “Driving Under the Influence of Alcohol or Controlled Substance.” Consent decrees in such cases may include the following terms and conditions:

- Driver’s license suspension for six months (mandatory)<sup>79</sup>
- Participation in a state-approved alcohol highway safety program (at juvenile’s cost)
- Payment of appropriate financial penalties including restitution
- Probation supervision
- Counseling or treatment where necessary

After an adjudication of delinquency in a DUI case, the probation office must at least recommend—and by implication the court must at least consider—the following as part of the disposition:

- Driver’s license suspension for one year (if other than a first offense general impairment)
- Mandatory use of ignition interlock for a period of one year following license suspension
- Participation in a state-approved alcohol highway safety program (at juvenile’s cost)
- Payment of appropriate financial penalties including restitution
- Six months of probation supervision
- Counseling or treatment where necessary

For more information on substance abuse and young people generally, contact:

Substance Abuse and Mental Health Services Administration  
Center for Substance Abuse Treatment (CSAT)  
5600 Fishers Lane  
Rockville, MD 20857  
(877) 726-4727  
[www.samhsa.gov/CSAT](http://www.samhsa.gov/CSAT)

A special curriculum designed to educate judges on drug abuse issues has been developed by the National Center for State Courts on behalf of the American Judges Association. For availability, contact:

- National Center for State Courts  
Institute for Court Management Education Program  
300 Newport Avenue  
Williamsburg, VA 23185



(800) 616-6164

Fax (757) 220-0449

<http://www.ncsconline.org>

## ***Juvenile Sex Offenders***

Fashioning an appropriate disposition for a juvenile who has committed a sexual offense can be a challenging task. Judges should bear in mind the following:

- ***Importance of assessment.*** Juvenile sex offenders are not all alike. Individualized clinical assessments are essential for sorting out differences in motivation, level of deviance, and dangerousness, and in order to distinguish severe pathology from youthful exploration.<sup>80</sup>
- ***Links between abuse and victimization.*** Many juvenile sex offenders report having been sexually abused themselves as children; the younger the age at which they were victimized, the greater their chances of victimizing others.<sup>81</sup> Accordingly, effective treatment must often address the juvenile's own victimization.
- ***Family involvement.*** Family therapy may also be a necessary part of treatment for juvenile sex offenders, because it is within the family that many of the offender's attitudes about sexuality, aggression, and gender have been learned.<sup>82</sup>
- ***Amenability to treatment.*** Overall, juvenile sex offenders are considered more amenable to treatment than adult sex offenders.<sup>83</sup> A significant percentage of juvenile sexual abusers will respond to therapeutic intervention, as long as it addresses more than just the sex-offending—including co-occurring disorders, impulse control problems, and thinking errors.
- ***Victim and community protection.*** In fashioning dispositions for juvenile sex offenders, juvenile courts must take care not to re-traumatize victims or threaten the safety of the community.<sup>84</sup> However, they should know that this population tends to have a relatively low recidivism rate when properly treated; when juvenile sex offenders do reoffend, they are likely to commit non-sexual offenses.<sup>85</sup>

Certain juvenile sex offenders may be subject to involuntary civil commitment upon age 21. An adjudicated juvenile sex offender who is ordered into placement and remains there at age 20 may be subject to extended involuntary civil commitment as a "sexually violent" person, under special provisions enacted in 2004.<sup>86</sup> (For an in-depth review of this issue, see § 8-8, "Admissions," and §10-8 "Special Disposition Review Procedures for Juveniles Committed to Placement for Specified Acts of Sexual Violence.")

For more information on juvenile sex offenders, contact:

National Center on Sexual Behavior of Youth Center on Child Abuse and Neglect  
Department of Pediatrics  
University of Oklahoma, Health Sciences Center  
1200 Children's Avenue, Suite 14000  
Oklahoma City, OK 73104  
(405) 271-4401  
<http://www.ouhsc.edu/>

Center for Sex Offender Management  
c/o Center for Effective Public Policy  
8605 Cameron Street, Suite 514  
Silver Spring, MD 20910  
(301) 589-9383  
<http://www.csom.org>

### ***Females***

The proportion of girls involved in Pennsylvania's juvenile justice system is a critical concern. Disposition decision-making involving girls should take into account the likelihood that the causes of their delinquent behavior may be distinctively different from those of boys. Research suggests that girls' offending may be closely linked to their own victimization: histories of emotional, physical, and/or sexual abuse, unstable homes, serious physical health problems, and unmet psychological treatment needs are overwhelmingly common among court-involved girls.<sup>87</sup> There is thought to be a particularly close link between delinquency among girls and post-traumatic stress disorder (PTSD), a lasting psychiatric illness that sometimes follows life-threatening events and is associated with impulse control problems, substance abuse, school failure, and other self-destructive behavior patterns.<sup>88</sup> In Pennsylvania, a special treatment curriculum has been developed to address PTSD in female delinquent youth and PTSD victims in residential placements.<sup>89</sup>

For information about the PTSD treatment curriculum for girls in Pennsylvania's juvenile justice system, contact:

Pennsylvania's Post Traumatic Stress Disorder Project  
Gary J. Lewis  
Pennsylvania PTSD Project Coordinator  
2771 South Grande Blvd.

Greensburg, PA 15601  
(724)830-1815  
<http://co.westmoreland.pa.us/222/PTSD-Project>

National Center for Juvenile Justice  
3700 South Water Street, Suite 200  
Pittsburgh, PA 15203  
Phone (412) 227-6950  
Fax (412) 227-6955  
<http://www.ncjj.org>

Further information about programming for girls in the juvenile justice system is available from:

The Gender-Programming Training and Technical Assistance Initiative  
Greene, Peters, & Associates  
1018 16th Avenue North,  
Davidson, Nashville TN 37208  
(615) 327-0329

National Center for Child Traumatic Stress  
NCCTS at Duke University  
1121 West Chapel Hill Street, Suite 201  
Durham, NC 27701  
Phone: (919) 682-1552  
Fax (919) 613-9898

NCCTS at University of California, Los Angeles  
11150 W. Olympic Blvd., Suite 650  
Los Angeles, CA 90064  
Phone: (310) 235-2633  
Fax (310) 235-2612

### ***Juvenile Fire-Setters***

Arson is the only major crime category in which most of those arrested are juveniles.<sup>90</sup> While curiosity and the desire to experiment with fire develop naturally in the majority of normal children, researchers have also uncovered correlations between juvenile fire-setting and stress, family dysfunction, abuse, and chronic neglect.<sup>91</sup> A judge weighing disposition in a juvenile arson case, especially one involving a repeat offender, must

consider the possibility that this is more than a particularly destructive form of vandalism—that the juvenile may be using the power of fire, consciously or unconsciously, as a kind of alarm bell or cry for help.<sup>92</sup> Accordingly, an essential component of the juvenile justice response to fire-setting should be screening, evaluation and referral for mental health treatment. Unfortunately, most programs for juveniles—particularly residential ones—will not accept juvenile fire-setters.

For help in finding appropriate resources in cases of this kind, contact the Juvenile Court Judges' Commission at (717) 787-6910.

The following organizations can provide further information on the treatment and monitoring of juvenile fire-setters:

Federal Emergency Management Agency  
United States Fire Administration  
16825 S. Seton Ave.  
Emmitsburg, MD 21727  
(301) 447-1000  
<http://www.usfa.fema.gov>

National Association of State Fire Marshals  
P.O. Box 671  
Cheyenne, WY 82003  
(202) 737-1226  
<http://www.firemarshals.org>

## ENDNOTES

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<sup>1</sup> Rule 409(A), Pa. R.J.C.P.; 42 Pa.C.S. §6341(b).

<sup>2</sup> See *In the interest of N.C.*, 171 A.3d 275 (Pa.Super.2017), in which the Superior Court held that the Commonwealth must prove beyond a reasonable doubt that the juvenile is in need of treatment, supervision, or rehabilitation.

<sup>3</sup> 42 Pa.C.S. §6301(b)(3)

<sup>4</sup> Rule 510, Pa.R.J.C.P.

<sup>5</sup> Rule 512, Pa.R.J.C.P.

<sup>6</sup> Rule 515, Pa.R.J.C.P.

<sup>7</sup> 42 Pa.C.S. §6301(b)(3)(i). In general, see *Pennsylvania's Juvenile Justice System Enhancement Strategy* at [https://pachiefprobationofficers.org/docs/JJSES\\_Monograph.pdf](https://pachiefprobationofficers.org/docs/JJSES_Monograph.pdf) and the November 2015 JCJC publication titled *Enhancing Balanced and Restorative Justice through Pennsylvania's Juvenile Justice System Enhancement Strategy* at [https://pachiefprobationofficers.org/docs/BARJ\\_and\\_JJSES.pdf](https://pachiefprobationofficers.org/docs/BARJ_and_JJSES.pdf)).

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- <sup>8</sup> 42 Pa.C.S. §6352(a).
- <sup>9</sup> 42 Pa.C.S. §6352(a).
- <sup>10</sup> 42 Pa.C.S. §6352(a).
- <sup>11</sup> Rule 513(B), Pa.R.J.C.P.
- <sup>12</sup> Rule 513(C), Pa.R.J.C.P.
- <sup>13</sup> 42 Pa.C.S. §6341(b).
- <sup>14</sup> 42 Pa.C.S. §6339(a).
- <sup>15</sup> Rules 408 and 409, Pa.R.J.C.P.
- <sup>16</sup> See Comment, Rule 512, Pa.R.J.C.P.
- <sup>17</sup> Rule 512(B), Pa.R.J.C.P.
- <sup>18</sup> Rule 512(A)(3), Pa.R.J.C.P.
- <sup>19</sup> Rule 512(A)(4), Pa.R.J.C.P.
- <sup>20</sup> Rules 151 and 152.A(3)(d), Pa.R.J.C.P.
- <sup>21</sup> 42 Pa.C.S. §6341(b). Rule 510, Pa.R.J.C.P., allows for continuances beyond this initial twenty-day period, but specifies that, in cases in which the juvenile is detained, any additional continuance granted “shall not exceed twenty days.”
- <sup>22</sup> 42 Pa.C.S. §6341(e).
- <sup>23</sup> 42 Pa.C.S. §6341(d). To the same effect, see Rule 512(A)(1), Pa.R.J.C.P.
- <sup>24</sup> One commentator has argued that an in camera showing of the actual need for confidentiality should be required in any case in which the Commonwealth attempts to introduce information without disclosing its source. See McCarthy, Pa. Juvenile Delinquency Prac. & Proc. (4th Ed.), §12-4.
- <sup>25</sup> Rule 512(A)(2), Pa.R.J.C.P.
- <sup>26</sup> Rule 512(D)(7), Pa.R.J.C.P.
- <sup>27</sup> Rules 147 and 512(D)(6), Pa.R.J.C.P.
- <sup>28</sup> 42 Pa.C.S. §6351(b).
- <sup>29</sup> Rule 500, Pa.R.J.C.P.
- <sup>30</sup> 42 Pa.C.S. 6336 and Rule 512, Pa.R.J.C.P.
- <sup>31</sup> Rule 512 and Comment, Pa.R.J.C.P.
- <sup>32</sup> 18 P.S. § 11.201.
- <sup>33</sup> Comment to Rule 409, Pa.R.J.C.P.
- <sup>34</sup> These questions are adapted from various sources, including How to be Victim Friendly in Juvenile Court: Obtaining Victim Impact Statements, one of a series of brochures on victim issues produced by the National Council of Juvenile and Family Court Judges; the National Center for Victims of Crime’s Impact Statements: A Victim’s Right to Speak, a Nation’s Responsibility to Listen (available online at <http://www.ojp.usdoj.gov/ovc/>); and the Victim Impact Statement form used by the Juvenile Probation Office of Blair County, Pennsylvania.
- <sup>35</sup> However, judges should not overlook the possibility that community representatives may be available to present what is in effect “victim impact” evidence.
- <sup>36</sup> 42 Pa.C.S. §6310
- <sup>37</sup> 23 Pa.C.S. §5505
- <sup>38</sup> Davies, H., and Davidson, H. (2002) Parental Involvement Practices of Juvenile Courts. Washington, DC: American Bar Association Center on Children and the Law.
- <sup>39</sup> 42 Pa.C.S. §6352(a)(1).
- <sup>40</sup> See 42 Pa.C.S. §6351.
- <sup>41</sup> See 42 Pa.C.S. §6352(a)(2). In the year 2004, for example, 18.7% of all original juvenile dispositions ordered in Pennsylvania consisted of straight probation; if you add cases in which probation was likely a central feature of the disposition, such as consent decree (17.5%) and informal adjustment (15.7%) cases, probation dispositions were probably imposed in a majority of juvenile cases that year. See Juvenile Court Judges’ Commission. (2006). Pennsylvania Juvenile Court Dispositions 2004. Shippensburg, PA: Juvenile Court Judges’ Commission.
- <sup>42</sup> Griffin, P., and Torbet, P. (Eds.) (2002). Desktop Guide to Good Juvenile Probation Practice. Pittsburgh, PA: National Center for Juvenile Justice.
- <sup>43</sup> In Pennsylvania, many juvenile court judges also have the option of ordering juveniles to be supervised by probation officers right in their schools.

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- <sup>44</sup> 42 Pa.C.S. §6352(a)(5). In addition, 18 P.S. §11.1101 of the Crime Victims Act requires that a juvenile who is the subject of a consent decree or an adjudication of delinquency “shall pay costs of at least \$25,” all of which must go into the Crime Victims Compensation Fund.
- <sup>45</sup> Rule 515, Pa.R.J.C.P.
- <sup>46</sup> 42 Pa.C.S. §6352(a)(6).
- <sup>47</sup> See *Tate v. Short*, 401 U.S. 395, 91 S. Ct. 668, 28 L. Ed. 2d 130 (1971).
- <sup>48</sup> 43 P.S. §41 et seq.
- <sup>49</sup> 42 Pa.C.S. §6352(a)(6).
- <sup>50</sup> *Ibid.*
- <sup>51</sup> *Ibid.*
- <sup>52</sup> 37 Pa. Code §§200.501-200.514.
- <sup>53</sup> See 42 Pa.C.S. §9728.
- <sup>54</sup> 42 Pa.C.S. §9728(g.1).
- <sup>55</sup> 18 P.S. §11.1101.
- <sup>56</sup> 42 Pa.C.S. §6352(a)(6).
- <sup>57</sup> Maloney, D., and Bazemore, G. (December 1994) “Making a Difference—Community Service Helps Heal Troubled Youths.” *Corrections Today* 56(7).
- <sup>58</sup> 42 Pa.C.S. §6352(a)(3) and (4).
- <sup>59</sup> 42 Pa.C.S. §6352.
- <sup>60</sup> 42 Pa.C.S. §6352(b).
- <sup>61</sup> 42 Pa.C.S. §6353(a).
- <sup>62</sup> 42 Pa.C.S. §6353(a).
- <sup>63</sup> 42 Pa.C.S. §6301.
- <sup>64</sup> 42 Pa.C.S. §6352(c) and Rule 512 D (4), Pa.R.J.C.P.
- <sup>65</sup> 18 P.S. §11.201(8.1).
- <sup>66</sup> The Bureau is located within the Department of Public Welfare’s Office of Children, Youth and Families. Its Harrisburg offices can be contacted at (717) 787-9532.
- <sup>67</sup> Cocozza, J., and Skowrya, K. (April 2000). “Youth with Mental Health Disorders: Issues and Emerging Responses.” *Juvenile Justice VII* (1). Washington, DC: Office of Juvenile Justice and Delinquency Prevention.
- <sup>68</sup> 42 Pa.C.S. §6356.
- <sup>69</sup> 50 P.S. §4101 et seq.
- <sup>70</sup> 50 P.S. §7101 et seq.
- <sup>71</sup> See 50 P.S. §4406.
- <sup>72</sup> See 50 P.S. §7303, 7304.
- <sup>73</sup> 42 Pa.C.S. §6339.
- <sup>74</sup> The link between adolescent substance use and juvenile delinquency has been well-documented. For example, drug users between the ages of 12 and 17 are more than 5 times as likely to shoplift, steal, or vandalize property as non-users, 9 times as likely to steal cars or commit armed robbery, and 19 times as likely to break and enter or burglarize. See Menard, S. (1998). *Prevalence and Frequency of Substance Abuse and Delinquent Behavior*. (Paper presented to the Juvenile Justice and Substance Abuse National Planning Meeting, Robert Wood Johnson Foundation, Annapolis, MD.)
- <sup>75</sup> See VanderWaal, C.J., McBride, D.C., Terry-McElrath, Y.M., and VanBuren, H. (2001). *Breaking the Juvenile Drug-Crime Cycle: A Guide for Practitioners and Policymakers*. Washington, DC: National Institute of Justice. Available online: <http://www.ncjrs.org/>.
- <sup>76</sup> 71 P.S. §1690.112a.
- <sup>77</sup> See National Opinion Research Center. (1998). *Services Research Outcomes Study*. Rockville, MD: Office of Applied Studies, Substance Abuse and Mental Health Services Administration. According to the authors of this large-scale treatment outcome study, “No statistically significant decreases were detected for adolescents in overall use of any illicit drug during the five years after treatment or in the specific use of marijuana, cocaine, and heroin. However, adolescents significantly increased their use of crack after treatment...” (emphasis added). Adolescents examined in the study also did more drinking, the authors found, “showing a 13 percent increase in alcohol abuse...following treatment.” These findings may show the effects of exposure to seriously delinquent peers, widespread use of inappropriate therapies, and the practice of coercing youth into treatment without

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adequate prior assessment; according to SAMSHA figures, more than half of all adolescents entering substance abuse treatment are not referred there by clinicians, but ordered there by justice and school officials. Office of Applied Studies, Substance Abuse and Mental Health Services Administration. (2001). "Coerced Treatment Among Youths: 1993 to 1998." The DASIS Report. Online at [http:// www.drugabusestatistics.samhsa.gov/](http://www.drugabusestatistics.samhsa.gov/).

<sup>78</sup> 75 Pa.C.S. § 3802.

<sup>79</sup> 75 Pa.C.S. § 3804 (e)(2)(v)

<sup>80</sup> Righthand, S., and Welch, C. (March 2001). *Juveniles Who Have Sexually Offended: A Review of the Professional Literature*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

<sup>81</sup> Kahn, T., and Chambers, H. (1991). "Assessing Reoffense Risk with Juvenile Sexual Offenders: Clinical Characteristics and Treatment Issues." *Sexual Abuse: A Journal of Research and Treatment* 9:187-9. Ryan, G., Lane, S., Davis, J., and Issac, C. (1987). "Juvenile Sex Offenders: Development and Correction." *Child Abuse and Neglect* 11:385-95.

<sup>82</sup> American Academy of Child and Adolescent Psychiatry, Work Group on Quality Issues. (1999). "Practice Parameters for the Assessment and Treatment of Children and Adolescents Who Are Sexually Abusive of Others: AACAP Official Action." *Journal of the American Academy of Child and Adolescent Psychiatry* 38 (12(Supplements)): 555-76S.

<sup>83</sup> *Ibid.*

<sup>84</sup> Center for Sex Offender Management. (2000). *Engaging Advocates and Other Victim Service Providers in the Community Management of Sex Offenders*. Silver Spring, MD: Center for Sex Offender Management.

<sup>85</sup> Worley, J., and Curwen, T. (2000). "Adolescent Sexual Offender Recidivism: Success of Specialized Treatment and Implications for Risk Prediction." *Child Abuse and Neglect: The International Journal* 24:965-982. National Council on Crime and Delinquency. (1996). *Juvenile Sex Offenders: Characteristics, System Response and Recidivism*. Washington, DC: National Council on Crime and Delinquency.

<sup>86</sup> 42 Pa.C.S. § 6358 and §§6401-6409.

<sup>87</sup> Acoca, Leslie. (2001). "Investing in Girls: A 21st Century Strategy." *Juvenile and Family Justice Today* 10(1): 12-19. See also Kerig, P. and Ford, J. (2014). "Trauma among Girls in the Juvenile Justice System." Available at National Child Traumatic Stress Network: <http://www.nctsn.org/products/trauma-among-girls-juvenile-justice-system-2014>

<sup>88</sup> Cauffman, E., Feldman, S., Waterman, J., and Steiner, H. (1998.) "Post-Traumatic Stress Disorder Among Female Juvenile Offenders." *Journal of the American Academy of Child and Adolescent Psychiatry* 37:1209-1216.

<sup>89</sup> Griffin, P. (2001). "Painful Secrets: Helping Traumatized Girls in Pennsylvania's Juvenile Justice System." *Pennsylvania Progress*. Pittsburgh, PA: National Center for Juvenile Justice. See also Griffin, P. (2002). "The Post-Traumatic Stress Disorder Project...Continued." *Pennsylvania Progress*. Pittsburgh, PA: National Center for Juvenile Justice.

<sup>90</sup> Snyder, H. (2005). *Juvenile Arrests 2003*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

<sup>91</sup> United States Fire Administration. *Arson and Juveniles: Responding to the Violence*. Available online: <http://www.usfa.fema.gov/>.

<sup>92</sup> National Association of State Fire Marshals. (July 2000). *Juvenile Firesetter Intervention Research Project: Final Report*. Available online: <http://www.firemarshals.org/>.