



COMMONWEALTH OF PENNSYLVANIA
JUVENILE COURT JUDGES' COMMISSION

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July 30, 2009

Hon. Chester B. Muroski
Judges Chambers, Third Floor
Luzerne County Courthouse
200 N. River Street
Wilkes-Barre, PA 18711

Judge Muroski,

Enclosed is a copy of the Juvenile Court Technical Assistance Report prepared by Lisa Freese and me, after visiting Luzerne County on four occasions to interview various staff in an effort to become familiar with the policies and procedures of the juvenile probation department. We also observed hearings on two separate occasions to become familiar with the operations of the Juvenile Court.

Lisa and I would like to express our appreciation for the assistance and cooperation we received from Judge Lupas, John Johnson, and Angie Zera. All of the probation staff interviewed were very courteous and forthcoming.

The report is very much cursory in nature because of the limited time we had to interview staff, review documents, and observe hearings. The recommendations were primarily centered around compliance with the Juvenile Court Procedural Rules, with some "best practice" recommendations also offered for your consideration. A draft copy of the report was sent to John Johnson several weeks ago to ensure that our understanding of policies and procedures were factually correct.

Both Lisa and I would be happy to discuss the report with you, Judge Lupas, and/or probation staff. We hope the report will be helpful to you as an "independent" cursory review of operations.

Sincerely,

Keith B. Snyder
Deputy Directory

Luzerne County Juvenile Court Technical Assistance Request

JCJC Staff Persons: Keth Snyder, Deputy Director
Lisa Freese, Director of Policy and Program Development

Dates of Visits: May 8, 2009; May 18, 2009; May 21, 2009; and June 5, 2009

Legal and Procedural Issues

Written Allegation Forms

Law enforcement agencies in Luzerne County utilize a standardized "Allegation Complaint" form to submit allegations of delinquency to the Luzerne County Juvenile Probation Department. The District Attorney has not elected to require the receipt and approval of written allegation forms by an attorney for the Commonwealth.

Upon review, there are a number of required elements that do not appear on the form. It is recommended that the District Attorney require the use of the model "Written Allegation" form posted on the website of the Administrative Office of the Pennsylvania Courts, at <http://www.pacourts.us/Forms/>, or that Luzerne County's existing "Allegation Complaint" form be re-named as a "Written Allegation" form and revised to include the following requirements of Pa. R.J.C.P. 232:

1. A section dedicated to descriptions of juveniles in cases where the name, date of birth, and address of the juvenile is unknown [See R.J.C.P. 232(2)];
2. A statement that it is in the best interest of the juvenile and the public that the proceedings be brought [See Pa. R.J.C.P. 232(3)(a)];
3. A statement that the juvenile is in need of treatment, supervision, or rehabilitation [See Pa. R.J.C.P. 232(3)(b)];
4. A statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision [See Pa. R.J.C.P. 232(8)];
5. A notation if criminal laboratory services are requested in the case [See Pa. R.J.C.P. 232(9)];
6. A verification by the person making the allegation that the facts set forth in the written allegation are true and correct to the person's personal knowledge, information, or belief, and that any false statements made is subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities [See Pa. R.J.C.P. 232(10)].

Utilizing check boxes or drop down menus on the allegation form for the race, ethnicity, eye color, and hair color of juveniles alleged to be delinquent will provide for more consistent information. The accuracy of race and ethnicity information is of particular importance.

Upon receipt by the juvenile probation department, allegation forms are "logged in" with a date and time stamp, and forwarded to Intake Officer Matt Skrepenak for processing.

Eligibility for Informal Adjustment Dispositions

A written policy, approved by Judge Chester Muroski on January 19, 1994, sets forth a list of offenses which prohibit a juvenile from receiving an informal adjustment disposition. According to Mr. Skrepenak, this policy is currently under review by Judge David Lupas. In addition to the list of offenses that would preclude a juvenile from receiving an informal adjustment disposition, Mr. Skrepenak reported that juveniles with a prior record are also ineligible for informal adjustment dispositions.

Based upon the aforementioned criteria, Mr. Skrepenak determines whether the juvenile will receive an informal adjustment disposition, or whether the case will be processed as "official", meaning the case will be scheduled for court. According to Mr. Skrepenak, the district attorney's office is not involved in decisions regarding the appropriateness of informal adjustment dispositions.

Intake Conferences

After Mr. Skrepenak determines which cases will receive informal adjustment dispositions and which cases will be scheduled for court, the cases are referred to one of the other three intake officers for an intake interview. The juvenile, the juvenile's parent/guardian, the police officer and victim are notified of the date and time of the intake conference. A copy of the written complaint form is provided to the juvenile and the juvenile's parent/guardian prior to the intake interview. Victims are afforded the opportunity to offer prior comment on the disposition of the case if informal adjustment is being considered.

Intake officers inform the juvenile and the juvenile's parent/guardian of the juvenile's rights at the beginning of the intake interview, and utilize a structured interview process. The "Intervention Needs and Competency Assessment" (INCA) provides a consistent method for conducting comprehensive intake interviews within the department. Information obtained from the INCA is subsequently entered into a computer and a written report is generated.

The Luzerne County Juvenile Probation Department is currently participating in a pilot project to utilize the Youth Level of Service / Case Management Inventory (YLS/CMI) risk/needs assessment instrument during the intake process. Combining the INCA and YLS/CMI will provide a comprehensive, research-based method for gathering information, and identifying risk factors and appropriate levels of service.

For cases initially targeted for an informal adjustment disposition, intake officers offer an informal adjustment agreement to the juvenile and the juvenile's parent/guardian at the conclusion of the intake interview. However, the attorney for the Commonwealth is not notified of the decision resulting from the intake conference. It is recommended that the juvenile probation department provide the attorney for the Commonwealth with notice of the decision resulting from the intake conference, pursuant to Pa. R.J.C.P. 311(C).

Meetings involving the intake officers and the Chief Juvenile Probation Officer occur on a weekly basis to discuss "official" cases scheduled for court. During these meetings, intake officers present case information and dispositional recommendations are developed in preparation for court.

Filing of Petitions

Police officers file petitions alleging delinquency in Luzerne County. However, Pa.R.J.C.P. 330(B) requires that either the attorney for the Commonwealth or the juvenile probation officer shall file a petition with the clerk of courts. It is recommended that the practice of police officers filing petitions cease, and that either an attorney for the Commonwealth or a juvenile probation officer file petitions.

Content of Petitions

It is recommended the petition utilized in Luzerne County be revised to include the following elements required by Pa.R.J.C.P. 330(C):

1. an area to describe the juvenile if the juvenile's name, date of birth and address are unknown;
2. the date when the offense is alleged to have been committed;
3. the place where the offense is alleged to have been committed
4. a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged;
5. the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated;
6. a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense;
7. the name and age of any conspirators, if known;
8. a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;
9. a notation if criminal laboratory services are requested in the case;
10. a statement that any false statements on the petition are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and
11. an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1)(ii) for limited public information.

A model petition alleging delinquency is attached for your consideration.

Service of Petition

Police officers file petitions alleging delinquency on the day that juveniles are scheduled for court, just prior to their adjudicatory hearing. Pa.R.J.C.P. 331(A) requires that upon the filing of the petition, a copy of the petition shall be served promptly upon the juvenile, the juvenile's guardian, the juvenile's attorney, the attorney for the Commonwealth, and the juvenile. The *Comment* to the rule states that the purpose paragraph (A) is to ensure the juvenile and the juvenile's attorney have notice of the allegations to prepare the case adequately. The practice in Luzerne County is that copies of written allegations are provided to the juvenile.

Pa.R.J.C.P. 331(B) requires that the service of the petition to the juvenile and the juvenile's guardian shall be by first-class mail or delivered in person, and Pa.R.J.C.P. 331(C) requires that the service of the petition to the juvenile's attorney, attorney for the Commonwealth, and juvenile probation officer shall be by first-class mail or delivered in person unless all individuals otherwise agree upon an alternative method.

The practice in Luzerne County is that police officers deliver petitions to the juvenile probation department on the day of court, and that juvenile probation department subsequently delivers them to the Clerk of Courts. The juvenile, the juvenile's guardian, the juvenile's attorney, and the attorney for the Commonwealth do not receive copies of petitions before or after court.

It is recommended that copies of petitions alleging delinquency be filed prior to court, and that copies of the petitions be served consistent with Pa.R.J.C.P.331.

Attorney Representation

A "Notice of Need for Legal Representation" is sent to all juveniles and parent(s)/guardian(s) along with the notice to appear for the intake conference. The notice contains a phone number and address of the Public Defender's Office, and strongly urges that the Public Defender's Office be contacted if an attorney cannot be afforded.

JCJC staff observed juvenile court proceedings on two separate days, and it was not unusual for juveniles to appear in court without legal counsel because the Public Defender's Office was not contacted. In all of these instances, Judge Lupas questioned the juvenile as to whether he/she would like to be represented by a public defender and, in all of the instances, a public defender was assigned to the case.

In each of these situations, juvenile court proceedings were temporarily halted to provide an opportunity for the juvenile to consult with the public defender. These consultations ranged from several minutes to over ten minutes, causing a delay.

In a significant number of other jurisdictions, juveniles are considered indigent and automatically approved for legal representation by the public defender. It is recommended that the Court review procedures regarding the legal representation of juveniles by public defenders in other jurisdictions, to reduce the number of juveniles appearing at hearings without attorneys. Assistance in this regard can be provided, upon request.

Best Practice Issues

Courtroom Security

There was no courtroom security provided during the two days of juvenile court hearings observed by JCJC staff. It is recommended that arrangements be made to provide courtroom security during all juvenile court proceedings.

Supervision of Employees

John Johnson and Angela Zera are both currently responsible for the direct supervision of an extraordinarily high number of employees. Mr. Johnson has a total of 13 direct reports, and Ms. Zera is responsible for directly supervising 19 juvenile probation officers. It is recommended that consideration be given to creating additional supervisory positions.

Initial Worksite of School-based Probation Officers

It is recommended that school-based probation officers be permitted to report directly to their assigned school buildings. In addition to eliminating a significant amount of unnecessary travel time, this would permit juvenile probation officers to immediately know whether juveniles on probation reported to school on time and would provide the school-based probation officers with the opportunity to immediately contact juveniles who do not report to school.

Technology

There are very few computers available to juvenile probation officers within the juvenile probation department, and no laptop computers available to juvenile probation officers doing fieldwork. All school-based probation officers are required to return to the juvenile probation department to enter information into the juvenile case management system, and juvenile probation officers must frequently "wait their turn" to enter data into the juvenile case management system.

It is recommended that the purchase of additional desktop computers be considered for use in the juvenile probation department, as well as laptops for use by probation officers doing field work.

Transportation

It is recommended that the current policy of not providing travel reimbursement for mileage driven by juvenile probation officers in their personal cars in the performance of their duties, and the policy governing the assignment of county vehicles to juvenile probation officers be reviewed. It was reported that a significant number of county vehicles assigned to the juvenile probation department are frequently in disrepair, which requires juvenile probation officers to use their personal vehicles to visit schools and homes of juveniles under juvenile court supervision without reimbursement for mileage driven.

On-call Procedures

The current policy of assigning one juvenile probation officer to provide all on-call services should be reviewed. Requiring one person to be available to respond to requests for detention in the middle of the night, every night of the year, is onerous. It is recommended that this duty be rotated among existing staff, as is done in most other juvenile probation departments.

Recommendations

1. It is recommended that the District Attorney require the use of the model "Written Allegation" form posted on the website of the Administrative Office of the Pennsylvania Courts, or that Luzerne County's existing "Allegation Complaint" form be re-named as a "Written Allegation" form and revised to include the elements required by Pa.R.J.C.P. 232.
2. It is recommended that the juvenile probation department provide the attorney for the Commonwealth with notice of the decision resulting from the intake conference, pursuant to Pa.R.J.C.P. 311(C).
3. It is recommended that the practice of police officers filing petitions cease, and that either an attorney for the Commonwealth or a juvenile probation officer file petitions.
4. It is recommended the petition utilized in Luzerne County be revised to include the elements required by Pa.R.J.C.P. 330(C).
5. It is recommended that copies of petitions alleging delinquency be filed prior to court, and that copies of the petitions be served consistent with Pa.R.J.C.P.331.
6. It is recommended that the Court review procedures regarding the legal representation of juveniles by public defenders in other jurisdictions to reduce the number of juveniles appearing at hearings without attorneys.
7. It is recommended that arrangements be made to provide courtroom security during all juvenile court proceedings.
8. It is recommended that consideration be given to creating additional supervisory positions.
9. It is recommended that school-based probation officers be permitted to report directly to their assigned school buildings.
10. It is recommended that the purchase of additional desktop computers be considered for use in the juvenile probation department, as well as laptops for use by probation officers doing field work.
11. It is recommended that the current policy of not reimbursing juvenile probation officers for mileage in their personal cars, in the performance of their duties, be reviewed.
12. It is recommended that on-call duties be rotated among existing staff.