

Pennsylvania Juvenile Justice Task Force
Defense Attorney Roundtable
September 21st, 2020

On September 21st, 2020, the Pennsylvania Juvenile Justice Task Force hosted roundtable discussion with 20 defense attorneys from across the commonwealth. The meeting was facilitated by Task Force member Tiffany Sizemore, assistant professor of clinical legal education at Duquesne University School of Law.

➤ ***Strengths of the Juvenile Justice System:***

- **Use of dependency system for youngest youth:** Some participants noted that they appreciate the opportunity to use the dependency system for their youth, noting that the dependency system has more services and better treatment for youth than the juvenile justice system. “Move kids into the dependency system,” one defense attorney said. “I like the idea of servicing children on the dependency side.”

➤ ***Areas in Need of Improvement:***

- **Eliminate fines, fees, and restitution:** Participants suggested getting rid of fines and fees assessed to youth and eliminating or decoupling restitution from a court order. “I think they should decouple restitution from kids, they’re already presumed indigent.” Specifically, one participant noted, “If you’re paying something four years down the road, it’s not going to connect that it’s for something you did.” In addition, one participant posed the question, “For victims, do you really want to get drips and drabs for years? There should be money set aside for restitution. In a perfect world, they should not order restitution for kids. Maybe this 300 million dollars should go into a restitution fund. They should create accountability in a non-monetary way. If you’re 13, 14 you can’t get a job anyway.” Another participant also added, “Besides there’s a cap on restitution for parents of \$3000—some of them are paying less than their kids!”
- **Procedural changes in court and for licensing facilities:** Defense attorney participants suggested a range of procedural changes that would improve the juvenile justice system, including:
 - eliminating the “delay in time from police investigation to charges filed.”
 - “reduc[ing] time for detention hearings from 72 hours to 48 hours.”
 - “totally” rewriting the 3800 regulations that govern facilities. As one defense attorney said, “they should include state facilities. No seclusion, no isolation. Right now, they’re leaving restraints as very loosely defined. If a child is injured or given a serious incident report then the parent/guardian and attorney should be notified. And if there are videos, the attorney should be provided.”
- **Change age requirements for juvenile court jurisdiction to align with research:** Participants widely agreed that the state should extend the age of juvenile court jurisdiction and raise the minimum age for which a youth may enter the system. Specifically, participants suggested extending the “age of juvenile jurisdiction to possibly 25 if necessary to conform with the science.”

- **Strip searches of youth in juvenile justice facilities are traumatic:** A defense attorney said, “for all of our kids, I don’t know how we can stop our strip searches. Strip searches are the single most traumatic thing that happens to our kids. We’ve had girls who said they were afraid to take off their clothes and their clothes were ripped off of them, told to bend over, squat and cough. It can have the same effect as being sexually abused and raped.”
- **Prohibit out-of-home placement for younger youth and youth who have not committed a felony:** Participants recommended raising the age to “16 or 17 years minimum for placement, and only for felonies and up.”
- **Eliminate the direct filing of youth in adult criminal court:** All participants agreed that the state should eliminate Act 33 allowing for youth to be directly filed in adult criminal court and tried as an adult. As one participant said, “It can’t be overstated how much it destroys kids’ and families’ lives. It can’t be overstated.” In addition, one defense attorney recommended that the state “do away with county juvenile convictions as points for adult sentencing.” Moreover, on the procedural component, one participant offered, “with direct file kids, too, I don’t like that the judges’ hands are tied [and] that you have to wait for the [district attorney] to agree that they go to a detention center.”
- **Make it easier for youth to expunge their juvenile records:** Defense attorneys all requested that the state make it easier for a youth to have their records expunged after being released. “Statute currently says 5 years, but that’s a lifetime for youth.”
- **Increase diversion, mentoring, and other community-based services as alternatives to out-of-home placement and to the justice system as a whole:** Participants suggested increasing the quantity and quality of community-based services across the state, noting “we really need the programs not to be court-affiliated. A lot of kids violate [the terms of probation] because they...participate[d] with a bad program.” Moreover, one participant stated, “We need more mentoring services, and we should get them through diversion instead of probation.” Finally, one commenter pointed out geographic disparities in programming across the state, stating, “most rural communities don’t have these programs available; I’ve never heard of any of these programs” and suggesting “maybe there needs to be a mandate that counties must spend a certain amount of money on community-based resources and alternatives to placements.”
- **Improve quality of education and treatment in facilities:** Participants commented on the lack of quality education and treatment options within facilities. One defense attorney shared that “kids aren’t getting whatever the appropriate treatment is [and] they’re not being diagnosed correctly.” Another stated that “there’s no accountability for when they don’t educate them – what did you do for six months!?” And another participant shared, “I think there’s a problem with school and placement – when kids get out of placement, they’re too far behind their peers in school. Kids will come back from a year of placement and come back without any credits that are recognized by...schools.” Finally, another roundtable participant said that “a lot of the kids who do get [a] GED or diploma, they have to sit in class all day anyway because the facilities don’t have anything else to do for them.”
- **The state has a lack of treatment opportunities for females:** Throughout the conversation, participants noted that females have many fewer opportunities for treatment than their male

counterparts. “They have to give girls the same opportunities as boys. We have girls going to the deepest end of the system for minor offenses because there are no alternatives for them.” Furthermore, one participant shared, “Our girls really get the short end of the stick because there are so few of them. Our community resources aren’t sustainable because one week there might be 5, [in] another there might be 10. But how do you account for that?”

- **Add a competency statute:** Defense attorneys noted that state law does not have a competency statute for youth. One participant noted that youth are “still not competent in terms of understanding how their action results in them going to placement.” Another participant cautioned about the creation of a competency restoration program (such as one in Maryland), stating that it was “actually worse because kids were learning about how it works and saying they were competent. We have to be careful what we wish for because it might be harmful.”

➤ **Notable quotes:**

- **On the lack of knowledge that some judges have when it comes to juvenile justice:**
 - “I’ll go before judges who don’t know anything about juvenile delinquency, adolescent brain development, the juvenile act – it’s ludicrous.”
- **On the notification of schools:**
 - “One thing that does bother me is the mandate that court notify a kid’s school. For adults, they don’t just call your kids employer. So, I don’t understand why there’s a mandate of what happened in the juvenile justice system.
- **On the need for restorative justice programming:**
 - “We need to have a true restorative justice program for these kids.”