

ALLEGHENY COUNTY COMMISSION ON JUVENILE JUSTICE

Report ~ October 2012



In response to the May 2010 Interbranch
Commission on Juvenile Justice Report

COURT OF COMMON PLEAS OF ALLEGHENY COUNTY



**FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
FAMILY DIVISION**

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October 1, 2012

The Honorable Donna Jo McDaniel
President Judge
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The Honorable Ronald D. Castille
Chief Justice
Supreme Court of Pennsylvania

Judges of the Fifth Judicial District
of Pennsylvania

Justices of the Pennsylvania Supreme Court

The Honorable Rich Fitzgerald
Allegheny County Chief Executive

The Honorable John M. Cleland, Chair
Pennsylvania Interbranch Commission
on Juvenile Justice

Members of the Allegheny County Council
Citizens of Allegheny County

Members of the Pennsylvania Interbranch
Commission on Juvenile Justice

The Pennsylvania Interbranch Commission on Juvenile Justice (ICJJ) was established by Act 32 of the Pennsylvania General Assembly, signed by Governor Rendell in August 2009. Its mandate was to investigate the tragic scandal in the Luzerne County juvenile justice system, and to propose recommendations for reform. The ICJJ released its Final Report and Recommendations in May 2010.

Shortly thereafter, President Judge Donna Jo McDaniel and Family Division Administrative Judge Kathryn Hens-Greco approved the establishment of a juvenile justice task force, "Allegheny County Commission on Juvenile Justice," to review the ICJJ Report, assess Allegheny County's juvenile justice practices and make further recommendations to ensure best practices consistent with the ICJJ recommendations. Having served as a member of the Pennsylvania Interbranch Commission on Juvenile Justice, it was my great honor to convene judges and juvenile justice stakeholders in Allegheny County to meet this task.

I am pleased to introduce this Report on behalf of the Allegheny County Commission on Juvenile Justice. It represents roughly two years of hard work by a diverse group of experienced members. The recommendations are formatted to track those outlined in the ICJJ Report. Many

of the ICJJ recommendations for reform are specifically directed to state level stakeholders and are therefore outside the scope of this Report. Statewide reform efforts continue even as I write this. *What we can do* as a county juvenile justice system is ensure that our local practices follow the letter, where applicable, and spirit of the ICJJ Report.

Some of the recommendations in this Report will require long range planning and sustained attention. Others have engendered swift, decisive action. One important example is the recent unanimous decision of our family / juvenile judges to voluntarily complete 12 hours of continuing legal education on an annual basis, including one ethics credit. Influenced in part by the ICJJ recommendations and following the lead of the family / juvenile bench, the entire Board of Judges (all divisions) of the Fifth Judicial District subsequently adopted the same continuing education standards by unanimous vote.

Like the Commonwealth of Pennsylvania, Allegheny County has a long history as a national leader in the juvenile justice arena. Nevertheless, we are humbled by the tragic events of Luzerne County and are determined to review our own juvenile justice practices to make modifications where necessary, and to sustain and strengthen existing best practices. Our goal is to be transparent and accountable in our progress.

We believe that implementation of the proposed recommendations in Allegheny County will promote the principles of balanced and restorative justice, the backbone of our juvenile justice system: victim restoration, youth redemption and community protection. In addition, as part of Pennsylvania's juvenile justice system, it is our hope that we might lead by example, and that other counties might also be encouraged to do the same.

Sincerely,



Judge Dwayne D. Woodruff, Chair
Allegheny County Commission on Juvenile Justice

ACKNOWLEDGEMENTS

The Allegheny County Commission on Juvenile Justice appreciates the amount of time and talent involved in coordinating meetings, recording minutes and compiling recommendations of the various sub-committees into a uniform format and ultimately final report to the community. We express our appreciation to the Family Court staff assigned to this project for their dedication and commitment to keeping us on task, and for enabling us to work most efficiently and effectively.

Specifically, we express special appreciation to Sharon Ann Doherty, Esq. for overall management of this project, including communication with the various stakeholders and member participants, legal and drafting expertise and endless attention to detail. We thank Sally Fields for her flexibility and willingness to assist with the myriad of administrative and support tasks, including notably her creativity in the report design. We wish to express our deep gratitude to Sharon Biasca, Esq. for her exceptional proofreading and editing of the report. We also acknowledge Ashley Locker, Judge Woodruff's intern from Duquesne University, and Jenyce Woodruff, Esq. for their valuable feedback.

Finally, we thank the Allegheny County Printing Services for their quality production services, and especially David Jesih for his kind and professional assistance.

TABLE OF CONTENTS

I.	Members of the Allegheny County Commission on Juvenile Justice	5
II.	Mission	7
III.	Recommendations.....	8
	A. Crime Victims.....	9
	B. Judicial Ethics.....	11
	C. Judicial Discipline	13
	D. Attorney Discipline	13
	E. Continuing Education	17
	F. Juvenile Prosecutors	19
	G. Juvenile Defense Lawyers.....	23
	H. Ethics for Juvenile Probation Officers.....	31
	I. Court Hiring Practices.....	32
	J. Continuing Supreme Court Oversight	34
	K. Use of Data and Statistics.....	34
	L. Stating Dispositional Reasoning on the Record	37
	M. Eliminate the Practice of Shackling.....	41
	N. Juvenile Placement Decisions	43
	O. Youth Level of Service Initiative.....	43
	P. Appellate Rights	44
	Q. Appellate Review	48
	R. Nunc Pro Tunc Relief	48
	S. County Commissioners	49
	T. Department of Education	50
IV.	Conclusion	53
V.	Glossary	54

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II. MISSION

The Allegheny County Commission on Juvenile Justice, commissioned by President Judge Donna Jo McDaniel, was formally launched shortly after the release of the Pennsylvania Interbranch Commission on Juvenile Justice (ICJJ) Final Report in May 2010. The Allegheny County Commission on Juvenile Justice was charged with reviewing the PA ICJJ Report, assessing Allegheny County's juvenile justice practices and making further recommendations to ensure best practices consistent with the PA ICJJ Recommendations.

About the Allegheny Count Commission on Juvenile Justice

The Allegheny County Commission on Juvenile Justice is Chaired by the **Honorable Dwayne D. Woodruff**, who presides over juvenile and family matters in the Fifth Judicial District of Pennsylvania. Judge Woodruff served as a member of the Pennsylvania Interbranch Commission on Juvenile Justice. He was appointed by Governor Rendell in 2006 to serve on the Pennsylvania Juvenile Court Judges Commission, and later appointed by the Pennsylvania Supreme Court to the PA Juvenile Procedural Rules Committee. He remains a member of both prestigious statewide groups. Judge Woodruff chairs the Allegheny County Children's Roundtable SAFE (*shared accountability for education*) Workgroup, and is tireless in his efforts around education for youth involved with the court system. He serves as co-chair with his wife Joy Maxberry Woodruff, of the Pittsburgh *Do the Write Thing Challenge*, a unique national campaign to engage middle school students in reducing violence in their community. Through these and a myriad of other efforts and initiatives, he has been a significant force in Allegheny County and in Pennsylvania to promote family engagement, and to improve outcomes for children and youth in the juvenile justice system.

Cynthia K. Stoltz, Esq., Administrator for the Fifth Judicial District of Pennsylvania Children's Court, serves as administrative co-chair. In 2004, Ms. Stoltz was appointed by the Supreme Court of Pennsylvania to serve on the Juvenile Procedural Rules Committee. She subsequently served as Chair during the period when the Committee published proposed rules related to the work of the ICJJ, and currently serves on the Committee *ex-officio*, representing the Pennsylvania Association of Court Administrators.

The Commission membership includes a distinguished group of respected Allegheny County and Pennsylvania experts. Many of the Commission members are also widely recognized as national leaders, and represent the court (judges, hearing officers, court administrators), the bar (juvenile defenders, district attorneys), advocacy groups (children, youth, victims), juvenile probation, child welfare, and various distinguished professional organizations. Throughout the process of review and careful analysis of local practices, as well as lively debate over reform efforts, Commission members modeled the kind of collaborative leadership necessary for system-wide enhancement and real reform, where necessary. The members are to be commended for their dedication to recommendations based on consensus around best practices and, in many cases, bold initiatives.

III. RECOMMENDATIONS

- A. Crime Victims
- B. Judicial Ethics
- C. Judicial Discipline
- D. Attorney Discipline
- E. Continuing Education
- F. Juvenile Prosecutors
- G. Juvenile Defense Lawyers
- H. Ethics for Juvenile Probation Officers
- I. Court Hiring Practices
- J. Continuing Supreme Court Oversight
- K. Use of Data and Statistics
- L. Stating Dispositional Reasoning on the Record
- M. Eliminate the Practice of Shackling
- N. Juvenile Placement Decisions
- O. Youth Level of Service Initiative
- P. Appellate Rights
- Q. Appellate Review
- R. Nunc Pro Tunc Relief
- S. County Commissioners
- T. Department of Education

A. Crime Victims

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- The creation of a statewide office of Juvenile Justice Victim Advocate.
 - The restoration of funding for the Victims of Juvenile Offenders (VOJO) program to 2005 levels.
 - The creation of a Luzerne Victims of Juvenile Crime Restitution Fund.
-

Allegheny County Report & Recommendations

The Victim Services Subcommittee was tasked with examining the above recommendations. The recommendations are designed to provide leadership and resources at the state level and create a Victims of Crime Restitution Fund specific to the original victims of juvenile crime in Luzerne County. Therefore, Allegheny County cannot be compliant with the Pennsylvania Interbranch Commission on Juvenile Justice Recommendations.

To comply with the spirit of the recommendations, however, the Victim Services Subcommittee examined practices currently in effect in Allegheny County and identified areas that could be enhanced. Unfortunately, during the course of time that the Subcommittee has been meeting, the Victims of Juvenile Crime Program has been zeroed out of the Governor's proposed budget. Therefore, the most critical area the Subcommittee examined was the effect this loss of funding would have on the Allegheny County VOJO program.

FUNDING:

Allegheny County has long been a stellar example of delivering rights and services to victims of juvenile crime. However, the current funding crisis for the VOJO program threatens to decimate the program. Traditionally, the Center for Victims of Violence and Crime (CVVC) staffed the juvenile court advocacy program with five to seven highly trained professional advocates. CVVC will need to reduce staff to approximately 2.5 advocates. Providing legislatively mandated rights and services to victims of juvenile offenders will be challenging for both the advocates and the Court. Currently, discussions are underway with the Juvenile Probation Department to ascertain the best method to assure victims' rights are upheld.

The Victim Services Subcommittee recommends:

- A highly organized and concerted effort is made to educate Pennsylvania legislators about the necessity of funding the VOJO program.
- Adequate training is provided to anyone assuming the responsibility of providing rights and services to victims of juvenile offenders.
- Funding sources other than the state budget are identified and explored.¹

¹ The 2012-2013 Commonwealth Budget included \$1.3 million for Victims of Juvenile Offenders Programs. This amount is less than half of what is needed to maintain programs; therefore continued advocacy for increased funding is recommended.

NOTIFICATIONS AND FORMS:

The Victim Services Subcommittee has made tremendous progress in fine-tuning all of the victim notification letters and other forms used by the Juvenile Probation Department and Victim Services. They are not only in compliance with the Rules of Juvenile Court Procedure and the Victims Rights Act, but they also have the potential of being used as templates by other agencies across the Commonwealth. The forms have been approved by both the Juvenile Probation Department and Victim Services. Consequently, the Victims Services Subcommittee recommends:

- The newly adapted letters and forms (attached) continue to be utilized.
- Education on the use of the forms continues to be a part of annual training.

MODEL COURTS PROGRAM:

Allegheny County is piloting the National Council of Juvenile and Family Court Judges' Model Courts Program. The Model Courts Program has the potential to streamline and increase the efficiency of the court. Through enhancements made to the Juvenile Act, the Rules of Juvenile Court Procedure and the Victims Rights Act, Pennsylvania has elevated the role of the crime victim in the juvenile justice system. Combining legislatively mandated rights with the Model Courts Program creates unique concerns for the VOJO program, namely, ensuring that rights and services allowed to crime victims are received at every juncture mandated by law. The Victim Services Subcommittee recommends:

- The Court ensures that all legislatively mandated rights and services to victims are incorporated into the Model Courts Program and that appropriate support and services are available to all victims of juvenile crime.

CONCLUSION:

The recommendations of this Subcommittee relating to crime victims are as follows:

- A highly organized and concerted effort is made to educate Pennsylvania legislators about the necessity of funding the Victims of Juvenile Offenders program.
- Adequate training is provided to anyone assuming the responsibility of providing rights and services to victims of juvenile offenders.
- Funding sources other than the state budget are identified and explored.
- Newly adapted letters and forms continue to be utilized.
- Education on the use of the forms continues to be a part of annual training.
- The Court ensures that all legislatively mandated rights and services to victims are incorporated into the Model Courts Program, and that appropriate support and services are available to all victims of juvenile crime.

B. Judicial Ethics

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- The Supreme Court re-examine the Code of Judicial Conduct to ensure ethical provisions and reporting requirements are adequate.
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Allegheny County Report & Recommendations

This Subcommittee was tasked with reviewing various issues relating to judicial ethics in Allegheny County in the wake of the Luzerne County corruption scandal. This Subcommittee specifically looked at training of judges in judicial ethics and possible alternate reporting and investigation of ethical complaints against the judiciary.

Based on this Subcommittee's review, Allegheny County cannot be in compliance with the recommendation of the Pennsylvania Interbranch Commission on Juvenile Justice as the recommendation of the Commission pertains to the Pennsylvania Supreme Court. In re-examining our own practices in Allegheny County, and in our proposal to strengthen the training of judges in judicial ethics, this Subcommittee believes that Allegheny County is in compliance with the spirit of the Pennsylvania Interbranch Commission on Juvenile Justice's recommendation.

JUDICIAL TRAINING:

All new judges in Allegheny County are provided, during an orientation meeting, with the Code of Judicial Conduct and some ethics opinions. There is no other formal training session. A copy of the ethics information packet has been provided to the Allegheny County Interbranch Commission and is available for review.

Additionally, all new judges are required to attend a week-long training session held in State College, Pennsylvania. This training session includes some formal training on, and discussion of, judicial ethics.

It is the recommendation of this Subcommittee that Allegheny County hold a formal educational training session on judicial ethics and that all judges are required to attend the session. The educational training should cover such topics as conflict of interest, recusal, *ex parte* communications, impartiality, community input and engagement, and other such subjects as may be determined to be necessary and appropriate. This training can, and should be, repeated at regular intervals, especially upon any significant change in the Code of Judicial Conduct.

This Subcommittee takes no position on holding regional training sessions with other counties, other than to note that education on these important issues is welcome whether the programs are produced locally or for a broader audience.

It is the additional recommendation of this Subcommittee that important decisions relating to judicial ethics be forwarded and circulated to all judges. This task of forwarding judicial ethics opinions and rulings can be delegated by the administrative Judges at their discretion.

REPORTING AND INVESTIGATION:

This Subcommittee also examined whether there should be a local body to which reports of alleged unethical judicial behavior may be reported, investigated and sanctioned.

It was explored whether the Gender Bias Subcommittee of the Women in Law Division of the Allegheny County Bar Association might agree to expand its scope to include complaints of alleged judicial ethics violations. The Gender Bias Subcommittee already has in place a well-established and confidential process by which reports of alleged gender bias by judges, court staff, lawyers and law firms are investigated and resolved. The Gender Bias Subcommittee declined to expand its scope. The suggestion was made that a subcommittee similar to the Gender Bias Subcommittee, using the same model and protocols, could be created by the Allegheny County Bar Association. The Board of Governors of the ACBA was not approached to create such a subcommittee.

This Subcommittee believes that substantial problems exist with the creation of a local judicial ethics committee. First, the work of any local judicial ethics committee could interfere with, compromise or complicate the work of the Judicial Conduct Board, the officially sanctioned body that deals with inappropriate judicial conduct, and the work of the Ethics Committee of the Pennsylvania Conference of State Trial Judges, which is charged by the Supreme Court to issue opinions to judges on ethics issues. Second, any local judicial ethics committee will have no legitimate power to receive reports for inappropriate conduct or investigate them. Third, if such a local ethics committee were to receive and investigate a report of alleged inappropriate judicial conduct, the local committee would be powerless to act on its finding and impose any sanction. Fourth, it must be considered when any such local investigation would be turned over to the Judicial Conduct Board for further investigation and action.

This Subcommittee recommends that the Allegheny County Commission on Juvenile Justice (ACCJJ) work with the Supreme Court, the Interbranch Commission on Juvenile Justice and other interested groups to advocate for strengthening the reporting, investigation and existing discipline system for judges.

CONCLUSION:

The recommendations of this Subcommittee relating to judicial ethics are as follows:

- Hold formal, mandatory training sessions on judicial ethics at regular intervals.
- Forward and circulate ethics decisions and opinions to all judges on a regular basis.
- Advocate for strengthening the reporting, investigation and existing discipline system for judges.

C. Judicial Discipline and D. Attorney Discipline

Pennsylvania Interbranch Commission on Juvenile Justice Summary of Statewide Recommendations

Judicial Discipline

- Review and revise recently adopted Judicial Conduct Board (JCB) Internal Operating Procedures.
- Review the role and independence of JCB staff vis-à-vis the JCB members.
- Revise and enhance the JCB annual reports.
- Revise and enhance the JCB website.
- Ensure that judges and lawyers are aware of their ethical responsibility to report misconduct, and develop educational materials so the general public is aware of how to report judicial misconduct.
- Review the Pennsylvania constitutional provisions regarding judicial discipline to ensure the JCB is accountable.

Attorney Discipline

- Create educational programming to ensure the bar and the general public understands what constitutes attorney misconduct.
 - Revise and enhance the attorney disciplinary board website.
 - Increase and enhance attorney Continuing Legal Education (CLE) ethics requirements.
-

Allegheny County Report & Recommendations

INTRODUCTION:

The statewide Interbranch Commission on Juvenile Justice (ICJJ) heard testimony that raised questions about whether conduct occurred during juvenile delinquency hearings in Luzerne County that may have violated the Code of Judicial Conduct or the Rules of Professional Conduct. As indicated in its report, the Commission expressed concern at the possibility, if not the probability, that no lawyer practicing in the juvenile courtrooms in Luzerne County ever filed a complaint with the Disciplinary Board against a fellow lawyer alleging a violation of the Rules of Professional Conduct. In addition, the ICJJ noted that the Judicial Conduct Board (JCB) reported that no judicial misconduct complaints were filed by any of the attorneys present during juvenile proceedings that were the subject of the Commission's investigation.

While the ICJJ stressed that it was not created to overhaul the judicial or attorney discipline systems, it spent a significant amount of time reviewing the specific findings of the JCB in relation to its action towards the two judges primarily responsible for the operation of the Luzerne County juvenile justice system. It also made significant inquiry into the attorney disciplinary system. Ultimately, the ICJJ made a number of important recommendations regarding judicial and attorney discipline, including the following:

- Review and revise recently adopted JCB Internal Operating Procedures.
- Review the role and independence of JCB staff vis-à-vis the JCB members.
- Revise and enhance the JCB annual reports.
- Review the Pennsylvania constitutional provisions regarding judicial discipline to ensure the JCB is accountable.
- Revise and enhance the attorney disciplinary board website.
- Increase and enhance attorney continuing legal education (CLE) ethics requirements.

This Subcommittee focused most of its attention in the following areas consistent with the ICJJ recommendations:

- Ensure that judges and lawyers are aware of their ethical responsibility to report misconduct.
- Foster communication between bench and bar to provide adequate informal accountability.
- Develop educational materials so that all participants in the juvenile/criminal justice system, as well as the general public, are aware of how to report judicial misconduct.
- Create, within the existing disciplinary framework, a local committee or body which could informally address any judicial or attorney discipline issues.

APPROACH OF THE SUBCOMMITTEE AND TOPICS CONSIDERED:

The focus of the Judicial Discipline and Attorney Discipline Subcommittee was more of a “best practices” approach. This Subcommittee met with relevant judicial and attorney participants, including the President Judge and Administrative Judges of both Criminal and Juvenile Divisions, and attorneys on both sides of the system. Generally speaking, this Subcommittee believes that Allegheny County is compliant with the recommendations issued by the ICJJ. The overall consensus among Allegheny County bench and bar is that there is not the same hesitancy, or unwillingness to challenge, lawyers and judges whose conduct implicates the Code of Judicial Conduct or the Rules of Professional Conduct as was found to exist in Luzerne County. There was, in the latter case, a systemic corruption which existed and strengthened over the course of many years. It seems unlikely that the same systemic corruption would find fertile soil here in Allegheny County. Having said that, a need exists to improve communication and education within the system, such that all participants, bench, bar and public will have an effective voice should the seeds of corruption become evident.

The approach of this Subcommittee was predominantly hypothetical, namely: (1) What if there is inappropriate behavior by judges and/or lawyers in and/or outside the courtroom – can anything be done about it in lieu of referring the matter to the appropriate disciplinary body? (2) Where can judges and lawyers turn to address quasi-ethical issues (i.e., those which do not necessarily implicate the respective ethical codes but which require attention)? A number of topics were reviewed by the Subcommittee, including the following:

- How to address inappropriate behavior in the courtroom by lawyers, the District Attorney’s Office, the Juvenile Probation Department and/or Children, Youth and Families?
- How can a lawyer and a judge approach issues about the “rogue” conduct or behavior reported or observed by a fellow judge or by a fellow lawyer?
- How to address the cultural issues of fear of retaliation against the reporting lawyer or judge?

- Where can a lawyer or judge go to report quasi-ethical issues?
- How can we increase the transparency that's needed to ensure that lawyers, judges and the public do not view the juvenile court as a closed system?
- How do we ensure that the collegiality/civil approach that lawyers and judges strive to achieve is not perceived as a fraternity attitude that impedes a fair and impartial adjudication of the issue that is being argued by the lawyer and adjudicated by the judge?

CONCLUSION:

1. This Subcommittee believes it is important that both the bench and the bar become more familiar with the rules, procedures and operation of the JCB, the Disciplinary Board and the ethical obligations of attorneys and judges as set forth in the Code of Judicial Conduct and the Rules of Professional Conduct. This Subcommittee recommends that the bench and bar work together to create and implement additional programs and materials to ensure that practicing attorneys and judges are aware of not only their ethical obligations to report judicial and professional misconduct, but also to provide them a better explanation of the options available in reporting such misconduct.

2. It is also recommended that both the bench and the bar work together to create and implement educational programs and materials, not only for judges and lawyers, but for the general public, that can be made available regarding the rules, procedures and operations of the JCB and the Disciplinary Board.

3. To avoid having the quasi-ethical issue or “rogue” behavior of a judge or lawyer rise to the level of judicial or disciplinary misconduct, the following is recommended:

a. Reinstate the periodic meetings the President Judge had with the Administrative Judges of the various divisions of the Court of Common Pleas. It was reported to the Subcommittee that in years past, these meetings were very effective in addressing issues between the bench and bar, potential problems that surfaced regarding the administration of justice, and rules and procedures implemented in the courtroom. Additionally, this custom was seen as critical in addressing issues concerning the interaction between judges and lawyers in the courtroom.

b. There should continue to be regular juvenile court systems meetings that include both the dependency and delinquency teams. This will give the opportunity for all key personnel to address current or potential problems or complaints – both in and outside of the courtroom.

c. The Administrative Judge of the Family Division should establish an internal blue ribbon committee to improve the transparency of the juvenile court system to ensure that the rights of all individuals, including victims and families, who are involved in the system are protected. In addition, this committee could also be directed to address reported “bad experiences” with any part of the process, including the juvenile probation office, a hearing officer, judge or other court personnel.

d. That a separate committee/group be created for lawyers and judges to bring specific complaints regarding inappropriate behavior or conduct by a judge or a lawyer. It would act as an alternative body, where judges and lawyers may turn in the event that they have encountered conduct of either bench or bar which violates civility or best practices, but which may not warrant formal complaint with either the Disciplinary Board or Judicial Conduct Board. In order to increase the effectiveness and viability of this group, it should have the protection of confidentiality so that a

lawyer or judge could seek assistance for inappropriate behavior of a judge or a lawyer without the fear of retribution. It is suggested that this committee be created and operated similar to the formation and the operation of the Gender Bias Subcommittee of the Women in the Law Committee.

e. The Judicial Discipline and Attorney Discipline Committee further recommends that the Court partner with the Allegheny County Bar Association to create and implement this blue ribbon committee or group. This committee should not be a disciplinary body. This newly established committee would serve two main purposes:

- (i) To elevate and educate lawyers and judges regarding judicial and attorney discipline, both as it relates to the rules and procedures of the Code of Judicial Conduct and the Rules of Professional Conduct and the options that are available to lawyers and judges regarding reporting unethical conduct; and
- (ii) To resolve reports and/or complaints about lawyers, judges or court personnel regarding inappropriate behavior and/or conduct in and outside of the courtroom. This committee would attempt to mediate the reported problem, incident and/or conduct by working with the parties involved. If mediation of a reported event is not possible, this group may, in appropriate circumstances, recommend that the case be referred to the proper disciplinary body or alternative dispute resolution body.

In addition, in order to ensure that lawyers, judges and court personnel are comfortable about bringing complaints and reports to this new group, this new committee/group must maintain strict confidentiality of its reports, deliberations and actions with appropriate exceptions. These exceptions should be determined by this newly formed committee. For example, this group may carve out an exception where the parties involved agree that confidentiality can be waived or where it is decided that formal referral to the appropriate disciplinary body is mandated or otherwise warranted.

It is also suggested that the members of this newly formed committee be appointed, half of the members by the President Judge and half by the president of the Allegheny County Bar Association. Members should serve on an annual basis.

It is further recommended that both the President Judge and President of the ACBA form a small planning group to address additional issues concerning the formation, operation and procedures of this newly formed committee.

E. Continuing Education

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- The Supreme Court require every judge assigned to handle delinquency matters attend 12 hours of relevant continuing education within 90 days of such assignment.
 - The Supreme Court develop mandatory continuing education standards for juvenile masters and hearing officers.
 - The Pennsylvania District Attorney's Association and the Juvenile Defenders Association of Pennsylvania develops and consistently present continuing legal education courses to train prosecutors and defense attorneys in their respective standards.
-

Allegheny County Report & Recommendations

This Subcommittee reviewed the training currently provided to judges, hearing officers, prosecutors and defense counsel who handle delinquency matters in Allegheny County. This Subcommittee specifically considered continuing education standards in light of troubling testimony heard by the Pennsylvania Interbranch Commission as to the juvenile court in Luzerne County being described as a “kiddie court” and “training ground for prosecutors and defenders.”

It is the opinion of this Subcommittee that Allegheny County should support the spirit of the recommendations made to the Supreme Court by establishing local continuing education standards pending ultimate action by the Supreme Court.

JUDICIAL TRAINING:

All new judges are required to attend a weeklong training session held in State College, Pennsylvania. This training session includes limited formal training on, and discussion of, delinquency matters.

It is the recommendation of the Subcommittee that Allegheny County require all Family Division judges to attend a minimum of 12 hours of continuing education each year regarding the Juvenile Act, child development and family relationships. The following programs are readily accessible to assist in meeting this requirement:

- Family Division monthly trainings on issues pertaining to the unique relationship between children and their families.
- Children's Roundtable Initiative trainings, sponsored by the Office of Children and Families in the Courts.
- Annual Pittsburgh Conference on Child Maltreatment, sponsored by Children's Hospital of Pittsburgh.
- Juvenile Court Judges Commission annual conference.

- Annual State Trial Judges Conference.

HEARING OFFICERS:

It is the recommendation of the Subcommittee that Allegheny County require all Juvenile Section hearing officers to attend a minimum of 12 hours of continuing education each year regarding the Juvenile Act, child development and family relationships. The following programs are readily accessible to assist in meeting this requirement:

- Family Division trainings on issues pertaining to the unique relationship between children and their families.
- Children's Roundtable Initiative trainings, sponsored by the Office of Children and Families in the Courts.
- Annual Pittsburgh Conference on Child Maltreatment, sponsored by Children's Hospital of Pittsburgh.
- Juvenile Court Judges Commission annual conference.

PROSECUTORS AND DEFENDERS:

It is the recommendation of the Subcommittee that Allegheny County require all Juvenile Section prosecutors and public defenders to be trained in the standards adopted by the Pennsylvania District Attorney's Association and the Juvenile Defenders Association.

CONCLUSION:

The recommendations relating to continuing education are as follows:

- Require all Allegheny County Court of Common Pleas judges attend a minimum of 12 hours of continuing education each year regarding areas of law in their respective divisions.
- Require all Family Division judges to attend a minimum of 12 hours of continuing education each year regarding the Juvenile Act, child development and family relationships.
- Require all Juvenile Section hearing officers to attend a minimum of 12 hours of continuing education each year regarding the Juvenile Act, child development and family relationships.
- Require all Juvenile Section prosecutors and public defenders to be trained in the standards adopted by the Pennsylvania District Attorney's Association and the Juvenile Defenders Association.

F. Juvenile Prosecutors

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- The Pennsylvania District Attorneys Association (PDAA) standards for prosecutors in juvenile courts should be implemented and adequately funded.
-

Allegheny County Report & Recommendations

REVIEW OF STATEWIDE RECOMMENDATIONS:

The 2010 Interbranch Commission Report, at page 47, notes that a prosecutor's special ethical obligation to be a minister of justice in the criminal justice system is enhanced in the context of juvenile delinquency proceedings under the principles of balanced and restorative justice. Specifically, the report states: “[W]hile prosecutors must assure the safety of the community and protect the rights of victims, prosecutors must go further in juvenile cases. A prosecutor must also weigh the needs of the juvenile offender — not with an eye toward punishment — but toward rehabilitation through the least restrictive means.” In light of such a unique and important role in the juvenile justice system, the report concludes that what occurred in the Luzerne County District Attorney’s office was nothing less than a “systemic failure.”

The Report identified numerous deficiencies in the operation of the District Attorney’s Office of Luzerne County with respect to Juvenile Court that combined to create a perfect storm in which juvenile offenders and their families suffered tragic injustices. Young and/or inexperienced attorneys, left largely unsupervised without substantive training or guidance, were unable to effectively advocate for the just resolution of cases, including addressing practices and policies of the court that seemed excessive or inappropriate.

ALLEGHENY COUNTY:

The recommendations offered by the 2010 Interbranch Commission Report in response to the issues identified by the Report offer a way to ensure that such outrageous violations of the rights of juvenile offenders cannot be repeated. Reviewing the recommendations in the local context of Allegheny County yields a generally positive picture of the form and function of the Juvenile Unit of the Office of the District Attorney of Allegheny County. Under the leadership of District Attorney Stephen A. Zappala, the Juvenile Unit can be described as experienced, knowledgeable, and dedicated to advocacy for the interests of the Commonwealth of Pennsylvania and support for the principles of Balanced and Restorative Justice (BARJ).

Specific information about the operation of the Juvenile Unit illustrates how the prosecutors fulfill their obligations under BARJ in Allegheny County Juvenile Court.

A. Unit Members

Established as a specific prosecution unit over 15 years ago, at present, the Juvenile Unit has six (6) full-time Assistant District Attorneys assigned to prosecute all delinquency proceedings in Allegheny County Juvenile Court, including all detention hearings held on-site at Shuman Detention Center. Members of the Unit are supervised

by a Deputy District Attorney who is located on-site. Access to the supervisor allows for prompt resolution of issues. The supervisor is also familiar with the day-to-day operations and personnel in Juvenile Court, including defense counsel, probation administration, probation officers and judges.

The Unit is supported by a full-time secretary. Administrative responsibilities include: preparing case files for court, maintaining statistics on case outcomes, and maintaining current case files.

B. Physical Location and Amenities

The Juvenile Unit of the Office of the District Attorney of Allegheny County is located in the Family Court Building of the Allegheny County Court of Common Pleas. The Office is easily accessible to Juvenile Court Administration, juvenile probation officers, and other court personnel. Current case files are maintained on site.

C. Tenure

The (5) Assistant District Attorneys and the Deputy District Attorney in the Unit have, combined, almost 5 decades of juvenile court prosecution experience involving all types of hearings and all types of charges. Prior to assignment in the Juvenile Unit, each attorney spent considerable time performing other work in the office, including conducting preliminary hearings, screening cases prior to trial, and prosecuting adult offenders in both jury and non-jury trials.

D. Training

All prosecutors in the Juvenile Unit attended a week-long introductory training through the Pennsylvania District Attorneys' Association when they began their employment with the Office of the District Attorney. Each member of the unit maintains annual compliance with continuing legal education (CLE) licensing requirements. The Office also supports membership in the Pennsylvania District Attorneys' Association, which gives prosecutors access to valuable resources and training materials.

The Office of the District Attorney supports opportunities for members of the Juvenile Unit to attend conferences, seminars and other pertinent training sessions related to juvenile justice issues. The Office provides funding for both registration and travel to locations throughout the Commonwealth of Pennsylvania, resources permitting. For example, all members of the Unit attended the 2012 PDAA Juvenile Justice Conference.

In sum, every effort is made to ensure that juvenile prosecution is treated as a specialty, where experience and excellence is required, and that the prosecutors assigned to the Unit are well versed in all aspects of the Juvenile Act, the Rules of Juvenile Court Procedure, relevant case law, and emerging trends and changes in policy and practice.

E. Technological Proficiency

Each member of the Unit has a desktop computer with word processing capabilities and both intranet and internet access. Prosecutors have access to the electronic website for the Family Court Prothonotary ("E-RIMS" or "E-filing"), which provides access to

petitions, allegations, pre-disposition reports, court orders, motions, briefs and other filings. Prosecutors also have email contact with probation officers, defense counsel, court personnel, police officers and other members of the District Attorneys Office.

The result is quick and efficient communication regarding various case issues, easy access to relevant reports prepared by evaluators and probation officers, and a means of documenting case proceedings. In addition, the ease of access to records and documentation of court proceedings lends itself to an unprecedented level of transparency in the process. It is considerably easier to review what happened, who was involved, and when, with the assistance of work product notes in the case file.

F. Case Processing

Prosecutors in the Juvenile Unit prosecute all felonies, misdemeanors and summary offenses filed in Juvenile Court, including sexual assaults, firearm offenses, and drug trafficking offenses. Prosecutors also handle all cases where jurisdiction has been transferred from Adult Criminal Court to Juvenile Court either by judicial decision or agreement by the parties.

The Assistant District Attorneys and the Deputy District Attorney work closely with probation officers in the Probation Department, who are responsible for receiving referrals alleging delinquent behavior from local police departments, filing petitions and handling initial discovery matters, including sending hearing notices. Prosecutors review cases with probation officers as needed and are always available to address concerns.

Prosecutors are involved in all pre-hearing conferences, adjudicatory hearings (trials), dispositional hearings (sentencing), and restitution hearings. When necessary and appropriate, the attorneys also participate, to varying degrees, in detention hearings, violation of probation hearings, failure to adjust hearings (when a residential program requests removal of the juvenile), and commitment review hearings (when a juvenile is in a residential program).

At all times, members of the Juvenile Unit work to ensure that testimony relevant to all the BARJ principles is presented at the time of adjudication, disposition and all subsequent hearings when necessary and appropriate.

G. Communication

There is on-going communication between the prosecutors of the Juvenile Unit and Juvenile Court Administration, attorneys in the Juvenile Unit of the Office of the Public Defender of Allegheny County, attorneys in the Office of Conflict Counsel of Allegheny County, and court personnel. While reasonable minds may differ as to the most appropriate resolution of cases, overall, practitioners in Juvenile Court work diligently and collegially in a professional atmosphere to resolve cases in a manner that serves the interests of the Commonwealth and juvenile offenders.

1. Training

Prosecutors provide training regarding various issues in Juvenile Court as requested by the probation department and any police department. Past topics

have included filing charges in adult criminal division, search and seizure as it relates to probation officers, and prosecuting sexual offenses.

2. On-call Assistance

Members of the Juvenile Unit are accessible to police officers and probation officers to provide assistance at all stages of case processing, including diversion prior to trial. In addition, an ADA in the Juvenile Unit is also on-call through 911 after hours. The Intake Department at Shuman Juvenile Detention Center receives a copy of the monthly on-call list. Supervisors in the Probation Department are also provided with a copy of the monthly on-call ADA calendar.

3. Court Initiatives

Members of the Juvenile Unit are involved in a number of court initiatives and committees aimed at improving overall form and function of the Juvenile Court System, such as the Allegheny Model Court Project, the Local Delinquency Rules Committee, and the Allegheny County Children's Roundtable Interbranch Committee.

4. Community initiatives

For the past several years, members of the Juvenile Unit have conducted presentations about juvenile justice and Juvenile Court at local area high schools through an informal Adopt-A-School program.

CONCLUSION:

The Office of the District Attorney of Allegheny County, under the leadership and direction of District Attorney Stephen A. Zappala, maintains a Juvenile Unit that can be described as experienced, knowledgeable, and dedicated to advocacy for the interests of the Commonwealth of Pennsylvania and support for the principles of balanced and restorative justice.

This Subcommittee makes the following recommendations in light of the concerns raised in Luzerne County.

- Adequate resources and funding should continue to be available for on-going training and continuing legal education. The value of opportunities to hear from experts in the field and to develop network resources cannot be understated. Moreover, training that addresses ethical obligations with respect to attorneys and the judiciary will assist prosecutors in pursuing appropriate remedies should issues arise in the future.
- Members of the unit should continue to develop and maintain collaborative relationships with all parties involved in the court proceedings. Open communication allows for difficult topics to be vetted and resolved. An environment that fosters professionalism and candor serves the interests of the Commonwealth and the juvenile offender.
- The Office of the District Attorney should continue efforts to provide support for effective and efficient operation of the unit by providing adequate resources and staffing, as well as supervision by a deputy district attorney specifically assigned to the unit and well-versed in the issues unique to juvenile court proceedings.

G. Juvenile Defense Lawyers

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Creation of a state-based funding stream for indigent juvenile defense.
 - Creation of a Center for Juvenile Defense Excellence.
 - Ensuring access to defense counsel by: deeming all juveniles indigent for purposes of appointing counsel; restricting the right of a juvenile to waive counsel and requiring stand-by counsel if the juvenile waives counsel; implementing an appointment system that avoids the appearance of impropriety; complying with the Performance Guidelines.
-

Allegheny County Report & Recommendations

Please find below a summation of the recommendations for the topic of Juvenile Justice issued by the Pennsylvania Interbranch Commission (found at pages 48-51 of the Interbranch Commission on Juvenile Justice Report) and the recommendations of the Allegheny County Interbranch Task Force Juvenile Defense Subcommittee (G).

- **Recommendation 1: A State-Based Funding Stream for Indigent Juvenile Defense**

The following information reflects Allegheny County's current compliance status with regards to Recommendation 1. Based on this subcommittee's review, it is the opinion of this subcommittee that Allegheny County cannot be in compliance with the Recommendation of the Pennsylvania Interbranch Commission on Juvenile Justice (May 2010) as the implementation of the Commission's Recommendation is a legislative or executive branch duty.

The Commonwealth must fund the training of Juvenile Defenders to advance the goals of the Juvenile Defenders Association of Pennsylvania Performance Guidelines ("Performance Guidelines"). The Allegheny County Office of Public Defender ("OPD") lost \$850,000 per year when state funding was withdrawn. The OPD requires additional funding in order to meet the training requirements of the Performance Guidelines. Currently, the OPD's juvenile defenders have access to training areas including: adolescent development; educational rights; child welfare; immigration law; and lesbian, gay, bisexual, and transgender issues.

Additionally, the OPD is understaffed. This shortage of attorneys and support staff inhibits the OPD's ability to fully comply with the Performance Guidelines.² In 2011, the OPD represented children in over 12,000 matters, despite having only eleven attorneys, three support staff, and one attorney-supervisor.³ According to the attached Juvenile Indigent Reform Initiative, the OPD should increase the number of attorneys practicing in its Juvenile Division to nineteen attorneys.⁴ The OPD also currently has an unfilled investigator position.

The Allegheny County Office of Conflict Counsel ("OCC") is understaffed with respect to

² The Juvenile Defenders Association of Pennsylvania recommends 200 cases per year as an appropriate caseload for an attorney practicing in matters of juvenile delinquency.

³ The 12,000+ cases do not account for cases transferred to the Juvenile Division from the Adult Criminal Division of the Court of Common Pleas.

⁴ See, Appendix A to this Memorandum for the Report.

support staff. The OCC currently employs four/five attorneys and one support staff. In 2011, the OCC appeared on behalf of children in over 1,900 proceedings⁵, including Act 53, delinquency, Act 33, and judicial bypass cases. While the current caseload may be appropriate with respect to the Performance Guidelines, there is a future risk that OCC will not be able to provide effective representation absent an increase in staff. The OCC does not employ an investigator, but rather private investigators are retained on a case-by-case basis and compensated solely based upon a fee structure established by the Court.

- **Recommendation 2: A Center for Juvenile Defense Excellence**

Based on this subcommittee's review, it is the opinion of this subcommittee that Allegheny County cannot be in compliance with the Recommendation of the Pennsylvania Interbranch Commission on Juvenile Justice (May 2010) as the implementation of the Commission's Recommendation is a legislative, judicial, or executive branch duty. Allegheny County will submit reports and provide any information necessary in order to assist in the creation or expansion of a statewide Center for Juvenile Defense Excellence which we believe would be an extremely beneficial resource.

- **Recommendation 3: Ensuring Access to Defense Counsel (4 Subparts)**

- 1. Subpart A: All juveniles should be deemed indigent for the purposes of appointment of counsel.**

At this time, Allegheny County is in compliance with this subpart recommendation. All juveniles are deemed indigent and currently, no fees are charged to juvenile clients or their families by the OPD and OCC for juvenile delinquency representation.

- 2. Subpart B: Restrict the right of a juvenile to waive the right to counsel and require stand-by counsel if the juvenile waives counsel.**

At this time, Allegheny County is in compliance with this subpart recommendation, as counsel appears in most cases. In rare instances involving scheduling constraints and lack of a sufficient number of attorneys to cover all courtrooms, courts have proceeded in review hearings without the presence of counsel. Defense counsel does not condone this practice.

Further, in January of 2012, the Pennsylvania Supreme Court amended Rule 152 of the Pennsylvania Rules of Juvenile Court Procedure with regards to a juvenile's right to waive counsel. Rule 152 currently provides, "the court may assign stand-by counsel if the juvenile waives counsel at any proceeding or stage of a proceeding." However, "stand-by counsel" has yet to be defined by the Pennsylvania Supreme Court, the Pennsylvania Interbranch Commission, or the Juvenile Court Procedure Rules Committee.

The Subcommittee does not endorse the use of "stand-by" counsel in any juvenile matter. In Allegheny County, the court, at this time, does not permit juveniles to waive their right to counsel, and thus, does not employ "stand-by" counsel.

- 3. Subpart C: Implement an appointment system for counsel that avoids the appearance of impropriety.**

⁵ A "proceeding" is defined by OCC as a scheduled court appearance on a particular T-number or a motion presented.

At this time, Allegheny County is in compliance with this subpart recommendation. Individual judges do not make appointments for individual cases. Rather, the case originates with the OPD who determines if a conflict exists. If such a conflict is present, the case is then referred to the OCC.

The OCC has implemented a system for the appointment of counsel that avoids the appearance of impropriety. An OCC attorney will be assigned the case unless a further conflict exists.

In 2011, appointed outside conflict counsel appeared at over 850 delinquency proceedings in Allegheny County. The system for assigning a case to an outside conflict attorney has four parts. First, any delinquency attorney desiring an appointment on a juvenile delinquency case must contact the OCC. Second, the attorney is screened for competency and experience. Third, the OCC will enter the name and contact information for the attorney in a conflicts database. Fourth, the attorney will receive an appointment based on the attorney's competency, the complexity of the case, and the availability for the case.

4. Subpart D: Compliance with the Performance Guidelines for Quality and Effective Juvenile Delinquency Representation.⁶

Guideline 1: The Special Role and Responsibilities of Delinquency Counsel for Children

At this time, Allegheny County is in compliance with this Guideline. Both the OPD and the OCC strongly adhere to the principles articulated within this Guideline and assign delinquency cases in accordance to the Guideline's procedures.

The effectiveness of the OPD's counseling has increased due to specific case review and assignment procedures. The OPD considers the defender's experience and complexity of the case before assigning new cases. Part of this review and assignment involves the collaboration between the Chief Juvenile Public Defender and a social worker.

The Guideline also recommends that juvenile defense counsel have access to experts where necessary. Although Allegheny County complies with this portion of the Guideline, the compliance is mixed. The OPD has a budget to hire experts, however the OCC must obtain a court order for the payment of any expert hired for the case. Additionally, experts are paid in accordance with adult criminal justice system procedures and the OCC cannot obtain more than one expert per case. The OCC has very limited additional funding available to obtain a second opinion.

Guideline 2: The Education, Training, and Experience of Delinquency Counsel for Children

At this time, Allegheny County is in minimum compliance with this Guideline. Limited funding makes the availability of training difficult for OPD and OCC attorneys. While Juvenile Defenders Association of Pennsylvania trainings opportunities are available, Allegheny County lacks formal training with regards to detention advocacy, litigation and trial skills, disposition planning, and post-disposition practice. Currently, these topics are only being discussed on an informal basis.

The OCC emphasizes continual training for each of its attorneys and provides an annual

⁶ The Performance Guidelines are attached to this Report as Appendix B.

training allowance.

Guideline 3: Detention Hearings and Pre-Adjudication Advocacy

At this time, Allegheny County is in compliance with this Guideline. Cooperative efforts between the OPD and Allegheny County's Chief Juvenile Probation Officer have resulted in an agreement to supply juvenile defenders with discovery material prior to detention hearings. The OPD has placed experienced and well-trained attorneys at detention centers in Allegheny County to ensure adequate representation during detention hearings. The average length of stay at a juvenile detention center in Allegheny County is approximately five days.⁷

Guideline 4: Effective Negotiation Practice for Juvenile Adjudication and Disposition

At this time, Allegheny County is in compliance with this Guideline. A vast majority of new cases are resolved through negotiations between defense counsel and the Office of District Attorney. Police officers are included in negotiations regarding adjudications and probation officers are often included in negotiations regarding dispositions. The OPD, OCC and private counsel are all actively involved in negotiating both adjudications and dispositions.

Both OPD and OCC attorneys have recently received training through JDAP regarding ethical responsibilities involved in plea negotiations, including the duty to advise clients of any plea offers tendered.

Guideline 5: Effective Advocacy for the Adjudicatory Hearings where Children are charged with Delinquent Conduct

At this time, Allegheny County is in compliance with this Guideline. OPD and OCC attorneys routinely prepare cases for hearing in the event that efforts to negotiate fail. The OPD employs an investigator to assist in the preparation of cases. The OCC does not employ an investigator, but one is available on an ad hoc basis. If such investigator is utilized, the OCC must file a motion with the trial judge to obtain payment of the investigator's fees.

Guideline 6: Effective Advocacy for the Disposition of an Adjudicated Child

At this time, Allegheny County is partially in compliance. While the OPD employs a social worker to assist with formulating an appropriate disposition, the OCC does not employ such an individual and it is the responsibility of the attorney to obtain the necessary documents, records and other information necessary to formulate an appropriate disposition.

Defense counsel in Allegheny County routinely **do not** submit written dispositional reports to the court, but always orally advocate a position regarding disposition consistent with the child's desires.

Dispositional advocacy is a significant part of defense counsel's role in Allegheny County.

Guideline 7: Special Cases involving Juveniles: Representation and Defense Counsel's Responsibilities.

⁷ www.jcjc.state.pa.us/portal/server.pt/community/statistics/5040.

Juvenile Sex Cases:

At this time, Allegheny County is substantially in compliance with this Guideline. Attorneys from the OPD and OCC have recently received multiple trainings in this area, including trying a sex case, and SORNA, through JDAP. No training has been offered in the area of Act 21 and representation before the Pa. Sexual Offenders Assessment board. Both OPD and OCC follow sex cases until closure by the Court.

Dual Cases

At this time, Allegheny County is in substantial compliance with this Guideline. OPD and OCC attorneys appear at and participate in dual hearings. Children are always represented by separate counsel: one for the delinquent piece and one, either through KidsVoice or the Dependency Division of OCC, specially trained for dependency piece.

Guideline 8: Continuing Post-Disposition Representation Responsibilities⁸

At this time, Allegheny County is in compliance with this Guideline. Both the OPD and OCC provide post-disposition representation until case closure. However, neither the OPD nor the OCC represents former delinquent clients in matters relating to record expungements. The OPD is no longer seeking grant funding to provide record expungements for former delinquency clients. The OCC is currently tracking all closed cases eligible for potential expungements, and is developing a program to address expungement issues for present and former clients.

Guideline 9: The Role of Juvenile Defense Counsel in Transfer and Direct File Proceedings

At this time, Allegheny County is in compliance with this Guideline. Experienced defenders are assigned cases involving potential transfers between the Adult Criminal Division and the Family Juvenile Division of the Court of Common Pleas. However, the issue of limited funding for experts in these cases remains with respect to the OCC.

Guideline 10: Perfecting an Appeal from the Delinquency Adjudication and Disposition

At this time, Allegheny County is in compliance with this Guideline. The OPD has designated an experienced appellate defender to represent its juvenile clients during the appellate process. The OCC delinquency attorneys are responsible for their own appeals, but several of the OCC attorneys are experienced appellate attorneys and are available to assist with appeals when necessary.

CONCLUSION:

In light of the current status of Allegheny County's compliance with the recommendations and the Performance Guidelines, the Subcommittee herein recommends the following:

- Establish minimum, uniform, mandatory standards for effective representation for juvenile delinquency matters both state-wide and in Allegheny County.
- Increase the number of OPD juvenile defenders from eleven to nineteen, in light of the amendment to Rule 152 of the Pennsylvania Rules of Juvenile Court Procedure.

⁸ The Subcommittee has no information to offer with regards to Guidelines 4-7.

- Provide funding for full-time investigators and social service advocates to the OPD and OCC.
- Increase training opportunities for juvenile defenders, specifically in the areas identified in the Performance Guidelines and with regards to: detention advocacy; litigation and trial skills; disposition planning; post-disposition practice; child welfare; immigration law; educational rights; adolescent development; and lesbian, gay, bisexual and transgender issues.
- Provide training for the judiciary in areas, specifically in the areas identified in the Performance Guidelines.
- Establish a Juvenile Delinquency Training Coordinator to gather, organize, update, and disseminate a list of local, state, and national training opportunities.

APPENDIX A

Juvenile Indigent Defense Reform Initiative CHART 1: Attorneys Representing Juveniles in Pennsylvania (Caseload Standards PHASE I) *

Chart compiled by PA-JIDAN and JDAP with data from the JCJC Disposition Manual, 2008

County	Number of Dispositions* pg. 10-13	Number of Informal Adjustments** (Prior to appointment of counsel) pg. 10-13	Number of Dispositions with attorney present [Dispositions (minus) Informal Adjustments] Does not include hearings prior to or following disposition	Total Number of Attorneys Needed to Meet Caseload Standard of 200 cases /yr
Adams	335	93	242	1.21
Allegheny	4591	757	3834	19.17
Armstrong	194	37	171	0.855
Beaver	543	150	393	1.965
Bedford	90	0	90	0.45
Berks	1607	319	1288	6.44
Blair	434	45	389	1.945
Bradford	94	11	83	0.415
Bucks	1548	194	1354	6.77
Butler	316	27	289	1.445
Cambria	500	0	500	2.5
Cameron	26	2	24	0.12
Carbon	184	3	181	0.905
Centre	202	0	202	1.01
Chester	1041	120	921	4.605
Clarion	138	19	19	0.095
Clearfield	73	0	73	0.365
Clinton	53	0	53	0.265
Columbia	220	74	146	0.73
Crawford	292	17	275	1.375
Cumberland	598	123	475	2.375
Dauphin	1484	124	1360	6.8
Delaware	2049	0	2049	10.245
Elk	76	14	62	0.31
Erie	971	214	757	3.785
Fayette	371	28	343	1.715
Forest	48	3	45	0.225
Franklin	628	43	585	2.925
Fulton	21	0	21	0.105
Greene	137	77	60	0.3

* The numbers developed by JCJC were not developed for the purpose of allocating funding to counties for indigent juvenile defense. These figures will be submitted to counties for verification and comment before funding recommendations are made.

** "A disposition is defined as a referral disposed of by the juvenile probation department and/or the court. Within a single delinquency referral, a youth may be charged with a number of offenses that may include a number of petitions. Any one youth may be involved in a number of dispositions with in a calendar year. In addition, a youth may be referred on more than one occasion and receive only one disposition". (JCJC Disposition Manual Preface)

*** Attorneys are not required to be appointed prior to informal adjustment hearings. 42 Pa.C.S. §6323(b), Pa.R.C.J.P. 312.

Juvenile Indigent Defense Reform Initiative
CHART 1: Attorneys Representing Juveniles in Pennsylvania
(Caseload Standards PHASE I) *

Chart compiled by PA-JIDAN and JDAP with data from the JCJC Disposition Manual, 2008

County	Number of Dispositions pg. 10-13	Number of Informal Adjustments (Prior to appointment of counsel) pg. 10-13	Number of Dispositions with attorney present (Dispositions (minus) Informal Adjustments) Does not include hearings prior to or following disposition	Total Number of Attorneys Needed to Meet Caseload Standard of 200 cases/ yr
Huntingdon	75	1	74	0.37
Indiana	150	28	122	0.61
Jefferson	132	3	129	0.645
Juniata	45	3	42	0.21
Lackawanna	437	107	330	1.65
Lancaster	1501	346	1115	5.575
Lawrence	366	195	171	0.855
Lebanon	382	87	295	1.475
Lehigh	1257	75	1182	5.91
Luzerne	921	64	857	4.285
Lycoming	587	167	420	2.1
McKean	113	15	98	0.49
Mercer	292	41	251	1.255
Mifflin	112	0	112	0.56
Monroe	430	14	416	2.08
Montgomery	2338	380	2302	11.51
Montour	36	2	34	0.17
Northampton	938	203	735	3.675
Northumberland	582	129	453	2.265
Perry	129	40	89	0.445
Philadelphia	8572	1155	7417	37.085
Pike	126	0	126	0.63
Potter	42	0	42	0.21
Schuylkill	512	55	457	2.285
Snyder	134	0	134	0.67
Somerset	123	1	122	0.61
Sullivan	15	0	15	0.075
Susquehanna	89	9	80	0.4
Tioga	137	0	137	0.685
Union	53	8	45	0.225
Venango	150	15	135	0.675
Warren	135	17	118	0.59
Washington	628	126	502	2.51
Wayne	101	3	98	0.49
Westmoreland	1257	125	1132	5.66
Wyoming	78	8	70	0.35
York	1915	352	1563	7.815
Total	43754	6248	37706	188.53

APPENDIX B

Performance Guidelines for Quality and Effective Juvenile Delinquency Representation

Guideline 1: The Special Role and Responsibilities of Delinquency Counsel for Children

Guideline 2: The Education, Training, and Experience of Delinquency Counsel for Children

Guideline 3: Detention Hearings and Pre-Adjudication Advocacy

Guideline 4: Effective Negotiation Practice for Juvenile Delinquency Adjudication and Disposition

Guideline 5: Effective Advocacy for the Adjudicatory Hearing where Children are Charged with Delinquent Conduct

Guideline 6: Effective Advocacy for the Disposition of Adjudicated Children

Guideline 7: Special Cases Involving Juveniles: Representation and Defense Counsel Responsibilities

Guideline 8: Continuing Post-Disposition Representation Responsibilities

Guideline 9: The Role of Juvenile Defense Counsel in Transfer and Direct File Proceedings

Guideline 10: Perfecting an Appeal from the Delinquency Adjudication and Disposition

H. Ethics for Juvenile Probation Officers

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- The rejection of all gifts, souvenirs, and tokens from all private providers who provide services to juveniles and their families as a result of recommendations by the Juvenile Probation Department.
 - The incorporation by counties entering into contractual agreements with the private providers on behalf of the probation department limiting providers to merchandizing based on outcomes and services rather than enticements.
 - Creation of standards barring part-time employment and board of directors' engagement of probation officers by private providers unless approved by the chief probation officer and the juvenile court.
 - Creation of standards surrounding confidentiality of cases.
 - Creation of standards surrounding subsequent employment of probation officers by private providers.
 - Creation of standards surrounding partisan political activity.
-

Allegheny County Report & Recommendations

Allegheny County Juvenile Probation has made great efforts in the area of ethics for its probation officers and the overall division. It is expected that all JPOs will follow statewide standards.

The Fifth Judicial District of Pennsylvania maintains the *Code of Conduct for Employees of the Unified Judicial System and Fifth Judicial District Addendum to Code of Conduct of Employees of the Unified Judicial System*. All employees read and sign the *Code* when they begin their employment with the court. The *Code* is a cornerstone for the ethical standards that are expected within the court. Part of the *Code* is devoted to confidentiality. It clearly states the expectation that any information gathered while working for the Court shall be safeguarded and shall not be disclosed.

Within the *Code* reside the standards that allow for outside employment and the procedures that need to be taken. All staff that holds outside employment must fill out a form informing the Court of outside employment. Staff must receive the appropriate approval. Currently, all of the JPOs are approved for their outside employment. We are cognizant of conflicts of interest especially with providers.

The *Supreme Court Policies on Activities* and our *Gift Policy* round out the other recommendations by the commission. To further support standards as to ethics and gratuities, the Executive Committee members of the Pennsylvania Council of Chief Juvenile Probation Officers (PCCJPO) adopted Standards of Conduct in July 2001 which are still in place today.

CONCLUSION:

Upon employment, our staff receives the aforementioned policies and is expected to follow them. Allegheny County is compliant with the statewide recommendations because we have a solid foundation of policies already in place.

I. Court Hiring Practices

Pennsylvania Interbranch Commission on Juvenile Justice Summary of Statewide Recommendations

- The Court Administrator of Pennsylvania should undertake a national study to determine the best practices for court hiring policies and present the findings of that study to the Supreme Court for review.

Allegheny County Report & Recommendations

The Commission recommended a national study to determine highest standards and best practices for court hiring policies. In addition, it stated its concern “for the employment of family members, close personal friends or political associates as it creates the perception that hiring . . . is not based on merit and competence . . . thereby undermining confidence in the courts.”

In almost all situations in Allegheny County Juvenile Probation and within the Family Division, we have solid hiring practices. Candidates are recruited and hired based on their ability to meet the minimum qualifications, and interview for the position. These practices are documented and followed.

In relation to Judges' personal staff, it is true that close friends and relatives work for many of our Judges. There is, however, no law currently prohibiting this practice.

As far as hiring practices for Judges, there are no standard hiring practices since Judges have the ability to hire whomever they deem appropriate. This means that the person does not necessarily have to meet any qualifying standards. In addition, judicial staff is not subject to all of the same policies and procedures as the rest of the court staff. At times, it is not known exactly what policies they must adhere to. These differences cause a distinction between judicial staff and court staff and often a perception by one that they are "better" than the other. This sometimes results in disrespectful treatment between the two instead of everyone working for the greater good.

CONCLUSION:

For Non-Judicial Staff:

- Continue to maintain fair and consistent hiring practices.
- Ensure that candidates meet the minimum qualifications for the position.
- Continue to maintain documentation and search files for every position filled.
- Upon selection and offer of employment, all candidates are vetted appropriately (i.e. background check).
- All of the above should apply across the 5th Judicial District of Pennsylvania.

For Judicial Staff:

- If Judges are permitted to hire at their discretion, the candidates should meet minimum standards for the job. They should at a minimum, have the skills, knowledge and ability to do the job.
- Upon selection and offer of employment, all candidates should continue to be vetted appropriately (i.e. background checks).
- Judges should consult with HR for advice on the hiring process.
- Policies and procedures should be established for judicial staff and all should follow them.

For Judicial Staff and Non-Judicial Staff:

- In December 2011, the Society for Human Resource Management (SHRM) announced the formation of two new task forces that will "develop national HR standards for compliance and regulatory and employee and labor relations." SHRM will be working with the American National Standards Institute (ANSI). The Court should consider looking to the outcome of these task forces for potential HR standards.
(<http://www.shrm.org/about/pressroom/pressreleases/pages/newhrstandardtaskforces.aspx>.)

J. Continuing Supreme Court Oversight

***Pennsylvania Interbranch Commission on Juvenile Justice* Summary of Statewide Recommendations**

- Continued oversight of the Luzerne County juvenile justice system.
-

Allegheny County Report & Recommendations

Recommendation "J" of the Pennsylvania Interbranch Commission on Juvenile Justice, as outlined in the May 2010 report, focuses on the Pennsylvania Supreme Court's role and efforts to improve the Luzerne County juvenile justice system, and to institutionalize best practices and procedures.

Specifically, the Interbranch Commission on Juvenile Justice Report recommends that "the Supreme Court develop a mechanism to provide continuing oversight of the Luzerne County court system through the office of the Court Administrator of Pennsylvania and to receive regular reports from the President Judge of Luzerne County to assure that the programs and procedures are institutionalized and the juvenile system functions in accordance with the Juvenile Act and the Rules of Juvenile Procedure."

This recommendation is, therefore, not directly applicable to Allegheny County.

K. Use of Data and Statistics

***Pennsylvania Interbranch Commission on Juvenile Justice* Summary of Statewide Recommendations**

- Ensure that adequate resources are available for the Juvenile Court Judges' Commission (JCJC) to collect appropriate juvenile justice data and conduct additional data analysis.
 - Enhanced data collection and data sharing among various entities that collect data regarding the juvenile justice system.
-

Allegheny County Report & Recommendations

The Interbranch Commission on Juvenile Justice recommendations are primarily directed toward state agencies as the principal data collectors, however, at the county level the message is clear that there should be a "meaningful process for converting the data we collect into useful information that can be used to guide the development of juvenile justice policy and decision making ... to identify localized problems in the juvenile justice system."

ALLEGHENY COUNTY SYSTEM:

Allegheny County's juvenile court/probation information system could be characterized as third generation. Data are gathered to keep track of cases and individuals, data are extracted for

inclusion in the state's Juvenile Case Management System (JCMS), and data are used to support management decision-making. Allegheny County Juvenile Probation Office (JPO) has been at the forefront of collecting and using data to drive policy and practice decisions. Allegheny County JPO established the first system to collect and report case information at time of case closing. These report-card data are now a statewide requirement and the concept has been duplicated in various jurisdictions throughout the United States. In addition, Allegheny County JPO has developed an additional interface to JCMS that permits a more detailed look at juveniles under supervision, and serves as a tool for supervisors as they manage probation officers under their supervision.

Allegheny County JPO has a standard set of reports that are distributed daily, weekly, or monthly that are used to make both policy and practice decisions. Some examples of the reports include:

- Daily Shuman Center Report
- Case Processing Timeframe Reports
- Caseload Statistics
- Placement Reports
- Case Closing Reports
- Restitution Reports
- Open Allegation Reports

Allegheny County JPO has published Annual Reports since 1999 that provide the public with a significant amount of data presented in a manner that is useful and meaningful to the end user.

Allegheny County JPO is also working with the PA Council of Chief Juvenile Probation Officers and JCJC to conduct recidivism studies collecting reoffending data from the period after the juvenile is no longer under the supervision of JPO. In the past, Allegheny County JPO only measured reoffending during the time of supervision. JPO cannot conduct these studies independently since it will require data comparison to adult charges and juvenile charges in other jurisdictions.

CONCLUSION:

It is important moving forward that Allegheny County maintain its strong use of data and statistics to support decision-making. It would be a shame if shrinking budgets, staffing reductions, or changing political climates were to diminish the County's ability to collect and use data in the future. To protect its data-use legacy, we make a few recommendations.

- **Allegheny County JPO regularly reviews the statewide *Juvenile Delinquency Data Analysis* tool to monitor accuracy and integrity at the state level, and see how Allegheny County statistics compare with other jurisdictions across Pennsylvania.**

The new *Pennsylvania Juvenile Delinquency Data Analysis Tool* was developed by the National Center for Juvenile Justice in collaboration with CJJT&R and JCJC. The site launched in April 2011 (<http://ncjj-staging.servehttp.com/PADAT/>). Never before have county probation departments had such a powerful tool that provides access to their own and other county's data. The County will want to monitor how their data are presented in this online tool accessible to the public to ensure the tool does not misrepresent anything. Once the County and CJJT&R have verified the data's integrity, this tool can be an important addition to the County's data-informed

decision-making. The online data tool can also be an important aid to ongoing monitoring of key data elements identified as “red flag indicators.”

Data accuracy and integrity will be especially important once the Administrative Office of Pennsylvania Courts’ Common Pleas Case Management System (CPCMS) expands to include a module for delinquency cases. Current plans are for the data to be shared between JCMS and the CPCMS systems regardless of where the data are initiated. Allegheny County JPO will need to ensure that its data are accurately reflected in the CPCMS system.

- **Allegheny County JPO continues to work with JCJC to insure that data integrity is not compromised when juvenile records are expunged.**

In order to conduct meaningful recidivism studies after a case is closed there must be some mechanism to maintain identifying information for the juvenile for statistical and research purposes to make it possible to tell if the juvenile re-offended. Other states have developed procedures to maintain data for research and statistical purposes without breaching the intent of expungement laws. Without these safeguards the recidivism rate for Pennsylvania will be artificially inflated since juveniles that are not likely to re-offend are apt to be those who would have their cases expunged, thus leaving only the juveniles likely to re-offend remaining in the data set.

- **Allegheny County JPO review statistical reports of other similar agencies from around the country to explore possible improvements to its own reporting.**

This would include Annual Reports as well as routine output reports and online data dissemination to the public. There is tremendous variation in agency data/information dissemination. This approach is an easy way to refresh reporting on many different levels so that information doesn’t become stale and taken for granted.

- **Allegheny County revisits the use of data and statistics issues at least once per year.**

It is the nature of the business that things change. It is important to avoid complacency — doing things well now does not ensure that they will be done well in the future.

L. Stating Dispositional Reasoning on the Record

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Revise statutes and Rules of Court to require judges to state on the record how a juvenile disposition furthers the goals of the Juvenile Act.
-

Allegheny County Report & Recommendations

Allegheny County is not yet in full compliance with stating dispositional reasons on the record. There are a number of Judges, newly moving into the world of Juvenile Court as a result of “One-Family, One-Judge.” This Subcommittee makes the following recommendations:

- Attached is a proposed bench card to guide judges when stating dispositional reasons on the record, which incorporate Balanced and Restorative Justice (BARJ) principles.
- The Court Orders and Forms Committee of the Children's Roundtable is also drafting a dispositional order, which will better state dispositional reasons in the order and judges can also use as a guide.
- We recommend that the local rules committee draft a local rule to conform to the state rule.
- Probation Officers have been trained in the Youth Level Services (YLS) initiative, which should help them make better recommendations to the court. It would be good for the judges to have a better understanding of the YLS.

Judicial Bench Card For Stating Dispositional Reasons On The Record

The dispositional order should reflect Pennsylvania Juvenile Justice's Mission of Balanced & Restorative Justice.

Community Safety and Protection

The following dispositional alternatives address community safety and protection:

- Out-of-home placement (including secure placement)
- CISP
- Academy
- Vision Quest Community Based
- DNA Samples and Fingerprinting
- Probation with the following services/conditions:
 - ◆ EHM or Home Detention
 - ◆ Curfew
 - ◆ Regular Reporting
 - ◆ No contact Orders
 - ◆ Intensive therapy (SSU/SAFE Program)

Victim Awareness & Accountability

The following dispositional alternatives address victim awareness and accountability:

- Restitution
- Letters of Apology
- Community Service
- Victim Awareness Curriculum
- Payment to the CVCF, VAC, Judicial Computer System/Access to Justice Fund, etc.
- Payment of crime lab user fees
- Suspension of Driving Privileges

Competency Development

The following dispositional alternatives address competency development of the juvenile offender:

- **Education**
 - ◆ Daily School Attendance
 - ◆ Appropriate behavior in School
 - ◆ GED Classes and Exam
 - ◆ SAT Prep and Exam

- ◆ College and Financial Aid Application
- ◆ Summer School
- ◆ Credit Recovery Program

- **Sobriety/Mental Health**
 - ◆ Random Urine Screens
 - ◆ Inpatient or Outpatient Drug Treatment
 - ◆ Drug and Alcohol Evaluation
 - ◆ 12-Step Programs
 - ◆ Mental Health Evaluation
 - ◆ Individual Mental Health Therapy
 - ◆ Group Therapy
 - ◆ Psychiatric Evaluation & Medication Management
 - ◆ Medication

- **Moral Reasoning and Pro-Social Skills**
 - ◆ Victim Awareness Curriculum
 - ◆ Victim Impact Panel
 - ◆ Groups at CISP, The Academy, or Vision Quest Community Based.
 - ◆ Aggression Replacement Training (ART)
 - ◆ Domestic Violence Curriculum/Counseling
 - ◆ Anger Management Curriculum/Counseling
 - ◆ Community Service
 - ◆ Mentoring Programs

- **Employment, Vocational, & Life Skills**
 - ◆ Abraxas Employment Initiative
 - ◆ Great Start Program
 - ◆ Goodwill
 - ◆ OVR
 - ◆ Lifeworks Program
 - ◆ Job Interviewing
 - ◆ Obtaining & maintaining employment
 - ◆ Life Skills Training
 - ◆ Independent Living Skills Classes
 - ◆ Obtaining a Driver's License
 - ◆ Obtaining certifications (Safe Serve, OSHA, etc.)

- **Family Functioning and Relationships**
 - ◆ Parental Respect
 - ◆ Sibling Respect
 - ◆ Family Therapy
 - ◆ In-home Services
 - ◆ Cooperation with OCYF
 - ◆ Parenting Classes
 - ◆ Financial Support of Children

When is Out-of-Home Placement Appropriate?

When the Offenses are so serious that in the interest of community safety and protection and accountability placement is warranted (even if it is the juvenile's first delinquent offense)

Examples:

- Rape, IDSI, and other sexual offenses
- Assaults committed with a deadly weapon
- Assaults where a victim was seriously injured
- Drug Dealing (large quantities)
- Arson causing injury or serious damage to property

When the treatment needs of the juvenile require treatment in a residential setting (even if it is the juvenile's first delinquent offense)

Examples:

- Severe mental health instability (RTF is medically necessary)
- Severe drug addiction (heroin addiction, alcohol addiction)

When all other community based services have been utilized, and it is determined that out-of-home placement is the only disposition that is consistent with the protection of the public and the treatment needs of the juvenile [i.e., the juvenile keeps getting high, violating curfew, being truant from school, getting suspended, running away, getting arrested, etc. (the kid who keeps coming back)].

M. Reduce or Eliminate the Practice of Shackling

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- The Juvenile Justice Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency should study and recommend ways to reduce or eliminate shackling in juvenile courtrooms.
-

Allegheny County Report & Recommendations

Allegheny County is compliant with the recommendations. In cooperation with the Allegheny County Sheriff's Office, the Allegheny County Juvenile Probation Department adopted a policy regarding shackling in the courtrooms. The policy was approved by the Judges and made effective on May 31, 2011. The policy, attached, is consistent with Pennsylvania Rule of Juvenile Court Procedure 139. The Allegheny County Sheriff's Office is also compliant with this rule regarding the elimination of shackling of juveniles in the courtroom.



ALLEGHENY COUNTY JUVENILE Probation

POLICY BULLETIN

APPROVED: Russell Carlino, Administrator

EFFECTIVE DATE: May 31, 2011

TITLE:

Use of Restraints in the Courtroom

POLICY:

It is the policy of the Court that restraints shall be removed from the juvenile prior to the commencement of a proceeding unless the Court determines on the record that they are necessary to prevent any of the following:

- (1) Physical harm to the juvenile or another person;
- (2) disruptive courtroom behavior, evidenced by a history of behavior that created harmful situations or substantial risk of physical harm;
- (3) the juvenile, evidenced by an escape history or other relevant factors, from fleeing the courtroom;
- (4) undue stress to a victim or witness present in the courtroom.

If the use of restraints is requested by Probation, any party or victim, or raised sua sponte by the Court, the Court will make a determination on the record, with the juvenile's attorney present, as to the need for restraints in the courtroom. This determination will be made before the juvenile is brought into the courtroom.

This policy pertains to the use of restraints in courtroom proceedings only. The use of restraints by sheriffs, probation officers, and others when taking juveniles into custody or transporting juveniles to and from Court, detention facilities, placement facilities, and other locations is governed by local policies of operation.

This policy is consistent with Rule 139 Pa.R.J.C.P.

PROCEDURE:

Before the hearing, the probation officer will review the juvenile's current offense, offense history, and other available relevant information to assess potential risk factors (violent behavior, history of absconding, resisting arrest, etc.).

If the probation officer, sheriff, victim, or other party believes that the juvenile should remain in restraints during the proceeding, the sheriff will be advised not to bring the juvenile into the courtroom until the Judge has ruled whether restraints are necessary.

The probation officer, sheriff, victim, or other party will approach the bench before the hearing, accompanied by the juvenile's attorney, to inform the Court of the factors relevant to the use of restraints.

Use of Restraints in
the Courtroom

After the judge hears any necessary testimony and makes a decision on the record, the Sheriff's Department will be advised of the Judge's decision.

If the Judge decides that restraints are necessary, the Sheriff's Department is authorized to use the restraints necessary to control the juvenile during the hearing.

N. Juvenile Placement Decisions

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Implement the Juvenile Detention Alternatives Initiative (JDAI) model as a detention assessment instrument.
 - The commission endorses the modification of the JCJC Standards Governing the Use of Secure Detention.
-

Allegheny County Report & Recommendations

Allegheny County is compliant with the statewide recommendations. Since 2008, the Allegheny County Juvenile Probation Department has required probation officers to complete the JDAI detention assessment when considering secure detention. The instrument produces an overall risk score that is used to guide the intake officer in making the decision to detain, divert, or release a juvenile.

Allegheny County Juvenile Probation Department is one of four departments, along with Philadelphia, Lehigh, and Lancaster, involved in the Annie E. Casey JDAI Initiative. The primary objectives of JDAI are:

- Reduce unnecessary or inappropriate secure confinement of children.
- Reduce crowding and to improve conditions for children in secure detention facilities.
- Encourage the development of non-secure alternatives to secure juvenile confinement.
- Discourage failures to appear in court and subsequent delinquent behavior.

The JDAI initiative in Pennsylvania is being coordinated by JCJC and will serve as a model for detention practices statewide.

O. Youth Level of Service Initiative

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Expand as a pilot program the Youth Level of Service / Case Management Inventory (YLS/CMI) risks/needs instrument and the employment of valid research and other evidence-based risk assessment instruments.
-

Allegheny County Report & Recommendations

Allegheny County is compliant with this statewide recommendation. The Allegheny County Juvenile Probation Department developed and implemented a policy pertaining to the use of the

YLS risk/needs assessment. The policy was made effective on September 27, 2011. During the summer and early fall of 2011; five probation supervisors were certified as master YLS trainers. These five supervisors then trained all probation officers in the use of the YLS. Beginning in September of 2011, all probation officers began conducting the YLS for all adjudicated and designated consent decree cases. June of 2012 the Probation Department developed the Juvenile Justice System Enhancement Department, which consists of five YLS interviewers, and a Supervisor. The unit conducts a majority of the YLS interviews on new referrals to the department and assists in the initial development of the juvenile's case plan. Also in June 2012, a YLS Probation Officer and an additional supervisor were trained as a YLS master trainers. November of 2012, we will have two additional YLS master trainers trained. One trainer will be within the JJSES Unit and one of our CISP Probation Officers will be certified master trainers. The YLS policy is attached.

The YLS is part of a comprehensive Juvenile Justice System Enhancement Strategy (JJSES) being implemented across the state with assistance from the Pennsylvania Council of Chief Probation Officers, the Juvenile Court Judges' Commission, and the Pennsylvania Commission on Crime and Delinquency. The JJSES seeks to infuse evidence-based practice to improve our ability to achieve our Balanced and Restorative Justice mission.

P. Appellate Rights

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Develop a form advising juveniles of their right to appeal and seek other post dispositional relief.
 - Develop internet-based resources explaining how the post dispositional process works and how parents and children can get assistance.
-

Allegheny County Report & Recommendations

Allegheny County is not yet in full compliance with advising youth of post-dispositional rights, nor does Allegheny County have a form to advise youth of post-dispositional rights. There are a number of Judges, newly moving into the world of Juvenile Court as a result of "One-Family, One-Judge."

Attached is a proposed form/colloquy.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION—JUVENILE SECTION

IN RE: _____,
a juvenile

DOCKET NO: _____
HISTORY NO: _____
CASELOG NO: _____

COLLOQUY FOR POST-DISPOSITIONAL RIGHTS

1. Do you understand your consequences or disposition? (Tell me what they are.)
_____YES _____NO _____INITIALS
2. You have the right, within 10 days from decides your consequences, to file a post-dispositional motion. In that motion you can:
 - a. ask the judge to reconsider the decision in finding you guilty (including what evidence was or was not allowed in the hearing);
 - b. ask the judge to reconsider the decision to place you in a program or on probation;
or
 - c. ask the judge to reconsider the decision to require you to do certain things as conditions of your supervision (such as paying fines or restitution, doing community service, taking urine screens, etc.)? Do you understand this?
_____YES _____NO _____INITIALS
3. Do you understand that you only have 10 days to file a post-dispositional motion?
_____YES _____NO _____INITIALS
4. Do you understand that your post-dispositional motion must be in writing?
_____YES _____NO _____INITIALS
5. Do you understand that you have the right to have a lawyer to help you to prepare your post-dispositional motion?
_____YES _____NO _____INITIALS
6. Do you understand that if you cannot afford a lawyer, the judge will appoint a lawyer to help you?
_____YES _____NO _____INITIALS
7. If you file a post-dispositional motion, the judge can do the following:
 - a. deny the motion without having a hearing;
 - b. grant the motion without having a hearing;
 - c. hold a hearing and then grant or deny the motion. Do you understand this?
_____YES _____NO _____INITIALS
8. If the judge denies your post-dispositional motion, you have the right to ask a higher court, called the Superior Court of Pennsylvania, to decide whether the judge was right or wrong in making his or her decision(s). This is called taking an appeal. Do you understand this?
_____YES _____NO _____INITIALS
9. You must file your request or appeal with the Superior Court, in writing, within 30 days from when the judge denied your post-dispositional motion. Do you understand this?
_____YES _____NO _____INITIALS

10. Do you understand that you have the right to have a lawyer to help you to prepare your request to the Superior Court?
_____YES _____NO _____INITIALS
11. Do you understand that if you cannot afford a lawyer; the judge will appoint a lawyer to help you?
_____YES _____NO _____INITIALS
12. Do you understand that if you decide that you do not wish to file a post-dispositional motion, you still have the right to take an appeal and to ask the Superior Court to decide whether the judge was right or wrong in finding you guilty (including what evidence was or was not allowed in the hearing)?
_____YES _____NO _____INITIALS
13. Do you understand that if you decide that you do not wish to file a post-dispositional motion, you still have the right to take an appeal and to ask the Superior Court to decide whether the judge was right or wrong in making the decision to place you in a program or on probation?
_____YES _____NO _____INITIALS
14. Do you understand that if you decide that you do not wish to file a post-dispositional motion, you still have the right to take an appeal and to ask the Superior Court to decide whether the judge was right or wrong by requiring you to do certain things as conditions of your supervision (such as paying fines or restitution, doing community service, taking urine screens, etc.)?
_____YES _____NO _____INITIALS
15. If you decide not to file a post-dispositional motion, but wish to take an appeal, you must file your appeal within 30 days from the day that the judge decides your consequences or disposition **or** 30 days from the day that you go to placement. Do you understand this?
_____YES _____NO _____INITIALS
16. Do you understand that your appeal must be in writing?
_____YES _____NO _____INITIALS
17. Do you understand that you have the right to have a lawyer to help you to prepare your appeal to the Superior Court?
_____YES _____NO _____INITIALS
18. Do you understand that if you cannot afford a lawyer; the judge will appoint a lawyer to help you?
_____YES _____NO _____INITIALS
19. If you admitted to any of the charges, you can only ask the Superior Court to look at the following issues:
- a. whether your admission (guilty plea) was voluntary (in other words—you made your own decision to admit to a charge, no one forced you to do this, and you understood what you were doing, including the consequences);
 - b. whether the judge had jurisdiction over your case (jurisdiction means that the court had the legal authority over your case); or

- c. whether the judge abused his or her discretion or made any legal errors in the things that were ordered as part of your disposition or consequences. Do you understand this?

_____YES _____NO _____INITIALS

20. It is important that you remember that you have certain time periods to file a post-dispositional motion or an appeal. These are the time periods.

- a. You have 10 days from the date that the judge decides your disposition or consequences to file a post-dispositional motion.

_____YES _____NO _____INITIALS

- b. You have 30 days from the date that the judge denies your post-dispositional motion (whether or not there was a hearing) to file your appeal with the Superior Court.

_____YES _____NO _____INITIALS

- c. If you do not file a post-dispositional motion, you have 30 days from the date that the judge decides your disposition or consequences **or** from the date that you go to placement to file your appeal with the Superior Court?

_____YES _____NO _____INITIALS

21. Do you have any questions about your rights?

_____YES _____NO _____INITIALS

If you answered yes, please write you questions below.

I have had the opportunity to discuss my rights with my lawyer and I understand them.

_____, _____
Juvenile Defendant Date

_____, _____
Counsel for the above-named juvenile Date

Q. Appellate Review

***Pennsylvania Interbranch Commission on Juvenile Justice* Summary of Statewide Recommendations**

- Expedited appellate review.
 - Creation of a statewide office to provide assistance in appeals under the Juvenile Act.
-

Allegheny County Report & Recommendations

These are state issues that require rule changes and state funding. Our Court should continue to speak out about these issues and be proactive in getting these changes to occur.

R. Nunc Pro Tunc Relief

***Pennsylvania Interbranch Commission on Juvenile Justice* Summary of Statewide Recommendations**

- Enhanced allowance of *nunc pro tunc* (now for then) relief.
-

Allegheny County Report & Recommendations

The recommendations of the Pennsylvania Interbranch Commission on Juvenile Justice (ICJJ) regarding Nunc Pro Tunc Relief are directed primarily to:

1. Pennsylvania legislative and/or rule-making bodies regarding an appropriate mechanism to consider requests for relief from wrongful adjudication after the juvenile defendant's appeal period has expired; and
2. The Pennsylvania appellate courts regarding the filing of appeals from juvenile adjudications nunc pro tunc.

Following the ICJJ Report, the Juvenile Procedural Rules Committee of the Pennsylvania Supreme Court published proposed new rules regarding nunc pro tunc relief. The Supreme Court adopted the Committee's recommendations and proposed new rules, which became effective April 1, 2012. Specifically, new Rules 622, 625 and 628 outline procedures for motions seeking nunc pro tunc relief, evidentiary hearings and court orders.

Allegheny County judges, hearing officers and juvenile justice stakeholders have participated in training sessions so they are knowledgeable of and compliant with the new rules of Juvenile Court Procedure. It is recommended that ongoing cross-systems training on these and all of the rules of Juvenile Court Procedure remain a priority.

S. County Commissioners

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Encourage county commissioners to attend the County Commissioner's Association of Pennsylvania (CCAP) Academy for Excellence in County Government.
 - Enhanced understanding of the respective roles and obligations of county-level court officials and county executive officials.
-

Allegheny County Report & Recommendations

The 5th Judicial District is substantially in compliance with the recommendations as set forth above. The court has had numerous opportunities to work in concert with the newly elected County Executive and other executive branch officials through formal and informal contacts which have included discussions of the Interbranch Commission report and recommendations. Specifically, court and county personnel have examined the relationship and requirements of the judicial and executive branches in the execution and management of juvenile placement provider contracts. In addition, the President Judge and County Executive serve as co-chairs of the Allegheny County Criminal Justice Advisory Board (CJAB) in which the principles of fairness and equal justice are paramount priorities in the Board's mission.

The 5th Judicial District members of the Pennsylvania Association of Court Management (PACM) are committed to furthering the liaison relationship between PACM and the County Commissioners Association of Pennsylvania (CCAP) to foster communication and develop educational opportunities that will enhance the appreciation of the distinct responsibilities of co-equal branches of government, which will ultimately increase public confidence in local authorities.

CONCLUSION:

Allegheny County should develop and implement statewide performance measures for contract management and administration for use by all local officials. Require annual performance audits of all providers.

T. Department of Education

Pennsylvania Interbranch Commission on Juvenile Justice **Summary of Statewide Recommendations**

- Zero-tolerance policies should be discontinued.
 - Enhanced understanding of the roles and obligations among educational, law enforcement, and juvenile justice stakeholders.
 - Enhanced cooperation among educational, law enforcement, and juvenile justice stakeholders to maintain safety and security in schools.
 - Keep the juvenile justice status of students confidential.
 - Review educational curriculum for children in placement.
-

Allegheny County Report & Recommendations

The Interbranch Commission on Juvenile Justice Report stated that although the Department of Education developed and, arguably, had available alternative methods of improving students behavior — programs that are similar to those that have been developed by schools across the country — schools in Luzerne County chose to have their students arrested. The Commission commented that experts in the field of education agree that for most students, there are alternatives that are much better and effective in ensuring a safe, secure and supportive environment for each child who attends school in Pennsylvania. The Commission specifically found that despite their respective stated and/or aspirational goals, they believed that both the Department of Education, specifically the local schools in Luzerne County, as well as the local juvenile justice system, specifically the District Attorney's office and law enforcement, failed to comport with their duties and obligations in achieving an educationally stimulating, but safe environment for every child who attends a public school in Pennsylvania. To address the respective organizations' shortcomings and in an effort to ensure the above mentioned goals are achieved, the Commission made a number of key recommendations that are summarized above.

There are 43 school districts in Allegheny County. This Subcommittee did not have sufficient means to survey all of the school districts regarding how school officials in their district handled offenses, especially minor infractions, during school hours or on school property. However, the Subcommittee did not receive any information that indicated there is any school district that is making school referrals under a zero tolerance policy that results in an easy removal of children from their homes and school with a constant stream of children being placed into detention. In fact, just the opposite was reported by Raymond Bauer, Assistant Administrator of the Allegheny County Juvenile Probation Department. Mr. Bauer indicated that Allegheny County has 39 school-based probation officers in 21 of the 43 school districts. The school based probation officers make every attempt to divert from the formal court process, crimes that occur on school grounds. Mr. Bauer further reported that juvenile probation uses informal adjustment conferences and victim/offender mediation to accomplish this task.

Additional information received, including the information provided on the Department of Education website, appears to confirm that the Department of Education is making a strong effort to communicate to school districts and the public, the school safety reporting and response requirements of Act 104 of 2010. Act 104 of 2010 required the State Board of Education to promulgate regulations that set forth a model memorandum of understanding between school entities and local police departments; establish protocol for notifying police when certain offenses

occur on school property and for emergency and non-emergency response by the police; and establish procedures and protocols for the response and handling of students with disabilities. Act 104 of 2010 also required the State Board of Education to work with an advisory committee to promulgate final omitted regulations within one year that set forth, among other things, a model memorandum of understanding between school districts and local police departments and the protocol for immediately notifying local police when certain offenses occur on school property. Such an advisory committee was established and comprised of key stakeholders representing education, law enforcement and juvenile justice.

Furthermore, groups like the Allegheny County Children's Roundtable, specifically, its Educational Success and Truancy Prevention Committee and Early Intervention Subcommittee have clearly communicated the message to the stakeholders involved with being charged the task of providing an educationally stimulating but safe environment for every child who attends a public school in Allegheny County, that zero tolerance and allowing the schools to use the justice system as its school disciplinarian has no place in the educational process or in the juvenile court system in Allegheny County.

Based upon the above, it appears to this Subcommittee that at the very least the spirit of the Commission's recommendation regarding the Department of Education, including that zero tolerance policies should be discontinued, is being complied with in Allegheny County. However, this Subcommittee also believes that more work can and should be done in enhancing the understanding of the rules and obligations that education, law enforcement and juvenile justice stakeholders should follow to ensure that both the stated and aspirational goals of the Department of Education as well as the juvenile justice system of achieving an educationally stimulating, but safe environment for every child in Allegheny County who attends public school are met. In an effort to ensure the above mentioned goals are achieved, this Subcommittee recommends the following:

CONCLUSION:

1. It is recommended that Allegheny County appoint a separate committee/group, possibly calling it an advisory or implementation committee, whose mission and/or goals would include the following:

A. To ensure that all school districts and local police departments are fully aware of their duties and obligations regarding Act 104 of 2010 and are fully compliant with same. This group should also consider assisting schools in fully complying with the State Board of Education's approval of Chapter 10 (Safe Schools), which is the new regulatory chapter to address the requirements of Act 104, and this would include ensuring that each school entity has an appropriate and viable Memorandum of Understanding with its local law enforcement agency.

B. Serve as an advisory group and informational source to help the school entity and law enforcement agency prevent delinquent acts through preventive measures, including referrals to support services and diversionary programs and to work with schools to establish and enhance school wide positive behavioral support, education and deterrence programs. Programs to educate and assist the schools in developing a school wide, evidence based and data driven approach to improve school behavior that seeks to reduce unnecessary student

disciplinary actions and promote a climate of greater productivity, safety and learning, should also be encouraged.

C. Serve as an advisory group and informational source to enhance a more cooperative relationship between school entities and local police departments in the reporting and resolution of incidences that occur on school property or at any school sponsored activities.

D. An aspirational goal of this group should be to foster a relationship of enhanced cooperation, mutual support and the sharing of information and resources between various organizations and stakeholders as they work together to maintain physical security and safety of schools in their district, as well as achieving the goals of the Pennsylvania juvenile justice system – holding youth accountable to victims, providing competency development for youth and ensuring community safety.

E. This advisory/implementation committee should have representatives among education, law enforcement and the juvenile justice system, including individuals representing: the police chiefs, juvenile public defender, school superintendents, district attorney, school district solicitor, the Allegheny County Juvenile Probation Department, the Department of Education and the Pennsylvania State Police.

2. In cooperation with the entities identified above, it is recommended that Allegheny County develop and expand programs that would support at risk students and expand affordable and available diversionary programs, while at the same time reduce unnecessary and inappropriate school referrals. One such diversionary program that Allegheny County should consider implementing in different parts of the county would be Youth Courts. Stoneleigh Foundation Fellow, Greg Voltz, with the support of the Pennsylvania Bar Association Pro Bono Office and various committees of the PBA, has spent the last five years developing and implementing Youth Courts in various parts of Pennsylvania. As Mr. Voltz states in his article, *Youth Courts an Idea Whose Time has Come*:

- “The Juvenile justice system is confronted with a large number of juvenile offenders and has insufficient resources to meet their needs.”
- “Students can’t learn in a chaotic environment. School suspension removes the offending students from the educational process, which handicaps their ability to learn.”
- “One goal must be to keep youths in school so they can acquire the competency to become productive members of society instead of becoming dependent on public entitlements or private charity.”
- “Youths who today are suspended from school and end up in our juvenile justice facilities are frequently tomorrow’s prison inmates. A better way has to be found.”

Mr. Voltz and others agree that a Youth Court is a positive disciplinary system and an alternative to suspension. In addition, Youth Courts appeal to students because these courts process real student disciplinary cases, which allow students to participate and contribute to an improved school climate.

In addition to Youth Courts, other diversionary programs should be either enhanced or established in Allegheny County.

IV. CONCLUSION

I find the great thing in this world is not so much where we stand, as in what direction we are headed.

--Oliver Wendall Holmes

Like Pennsylvania, Allegheny County has long been in the forefront of juvenile justice. We have been recognized as a statewide and, in some cases, a national leader in the field of juvenile justice.

We believe that the reasons stem largely from the longstanding commitment of the Court and its juvenile justice partners to *continually seek to do better*. Looking backward, we have asked critical questions, demanded comprehensive answers, and carefully analyzed the reasons for our practices and evaluated our results. Looking forward, we recognize that new challenges will require new questions, careful review and an openness to change to meet the evolving needs of our youth, our families and our system partners.

The Allegheny County Commission on Juvenile Justice was convened out of a *collective commitment to continually do better*. The ICJJ did not recommend a fundamental overhaul of the established juvenile justice system in Pennsylvania, nor do we believe that is necessary here. Rather, the within recommendations were both informed and inspired by the work of the ICJJ, and provide concrete suggestions to modify, where necessary, strengthen and sustain our practices to promote the principles of balanced and restorative justice to which we subscribe.

This Report represents a renewed commitment to justice for our youth in Allegheny County, to safeguards which support that commitment and to a system worthy of the public trust and confidence which we hold dear.

V. GLOSSARY

Act 32 of 2009 – Interbranch Commission on Juvenile Justice Act of 2009. 2009, Aug. 7, P.L. 143, No. 32. Codified at 71 P.S. §§ 1190.35a – e.

Administrative Office of Pennsylvania Courts (AOPC) - The office of the Court Administrator of Pennsylvania who, under the direction of the Supreme Court of Pennsylvania, is responsible for “the prompt and proper disposition of the business of all courts.” Pa.Const. Art. V, § 10(b), 42 Pa.C.S. §§ 1901 – 1906, Pennsylvania Rules of Judicial Administration (Pa. R.J.A.) 501 – 509

Code of Judicial Conduct (CJC) – Ethical rules, or “Canons,” adopted by the Supreme Court of Pennsylvania establishing the “high standards of conduct so that the integrity and independence of the judiciary may be preserved.” 207 Pa. Code § 33.

Crime Victims Act – Statutory provisions intended to ensure that victims of crimes are treated with dignity, respect, courtesy and sensitivity. 18 P.S. §§ 11.101 – 11.5102.

Disciplinary Board – Board appointed by the Supreme Court of Pennsylvania responsible for investigating and prosecuting alleged misconduct by attorneys and for making recommendations to the court regarding disciplinary matters. Disciplinary Board Rules § 93.21 – 93.23.

Juvenile Act – Statutory provisions governing juvenile matters. 42 Pa.C.S. §§ 6301 – 6375

Juvenile Court Judges’ Commission (JCJC) – Commission consisting of nine Pennsylvania judges serving in the juvenile courts charge with, among other things, advising juvenile court judges, examining administrative methods and judicial procedures used in juvenile courts, and collecting and publishing statistical reports and other data “as may be needed to accomplish reasonable and efficient administration of the juvenile courts system.” 42 Pa.C.S. §§ 6371 – 6375

Juvenile Defenders Association of Pennsylvania (JDAP) – Organization of attorneys who provide information and training on juvenile defense, supported by the Pennsylvania Commission on Crime and Delinquency. For more information on JDAP, see <http://www.pajuvdefenders.org/>.

Juvenile Detention Alternatives Initiative (JDAI) – Designed to support the Casey Foundation’s vision that all youth involved in the juvenile justice system have opportunities to develop into healthy, productive adults. For more information on JDAI, see <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx>.

Juvenile Law Center (JLC) – A Philadelphia based public interest law firm. JLC promotes juvenile justice and child welfare reform in Pennsylvania and nationwide through policy initiatives and public education forums. For more information on JLC, see www.jlc.org

King’s Bench / Power of Extraordinary Jurisdiction – For the statutory basis of the “extraordinary jurisdiction” of the Supreme Court of Pennsylvania see 42 Pa.C.S. § 726. For an explanation of the court’s “king’s bench powers,” see *In re Avellino*, 547 Pa. 385, 690 A.2d 1138 (1997)

Office of Disciplinary Counsel – Office that investigates and prosecutes matters of attorney misconduct under the Pennsylvania Disciplinary Board. Disciplinary board Rules §§ 93.61 – 93.63

Office of the Victim Advocate - Office established with the Pennsylvania Board of Probation and Parole to represent the interests of crime victims before the board or the Department of Corrections. 18 P.S. § 11.301

Pennsylvania Commission on Crime and Delinquency (PCCD) – 71 P.S. §§ 1190.21 – 1190.33. Commission seeks to enhance the quality of criminal and juvenile justice systems, facilitate the delivery of services to victims of crime and assist communities to develop and implement strategies to reduce crime and victimization. For more information on PCCD, see http://www.portal.state.pa.us/portal/server.pt/community/pccd_home/5226.

Pennsylvania District Attorneys Association (PDAA) – Organization formed in 1912 for the purpose of providing uniformity and efficiency in the discharge of duties and functions of Pennsylvania’s 67 district attorneys and their assistants. For more information on PDAA, see <http://www.pdaa.org/>.

Pennsylvania Judicial Conduct Board (JCB) – An independent board within the judicial branch responsible for receiving, investigating, and, where warranted, prosecuting complaints alleging judicial misconduct. Established pursuant to Pa. Const. Art. V, § 18. See also 42 Pa.C.S. §§ 2101 – 2106

Pennsylvania Rules of Juvenile Court Procedure (Pa.R.J.C.P.) – Rules of court governing delinquency and dependency proceedings.

Rules of Professional Conduct – Ethical rules adopted by the Supreme Court of Pennsylvania governing attorney conduct.

Victims of Juvenile Offender Program (VOJO) – Program providing for rights and services to victims in the juvenile justice system, through the VOJO state general appropriation.

Reports and other submissions made to the Interbranch Commission on Juvenile Justice may be accessed through the commission’s Web site at <http://www.aopc.org/Links/Public/InterbranchCommissionJuvenileJustice.htm>

State constitutional provisions and statutes (such as The Juvenile Act, 42 Pa.C.S. § 6301) identified in this report may be accessed through the Pennsylvania General Assembly’s Web site at <http://www.legis.state.pa.us/>.

State court rules identified in this report may be accessed through the Pennsylvania Code online at <http://www.pacode.com/secure/browse.asp>.

Many state court cases identified in this report may be found through the Unified Judicial System Web site at <http://www.pacourts.us/Opinions/Default.htm>.

United States Supreme Court opinions cited in this report may be found at <http://www.law.cornell.edu/supct/>.

