

DELINQUENCY COURT ASSESSMENT

EXECUTIVE SUMMARY

One issue which results in frustration of the public and reflects negatively on the judicial system is untimeliness in decision-making. Justice delayed is often justice denied. The courts must strive to minimize, if not eliminate, untimely justice.

JUSTICE CHARLES T. WELLS
Prospectus 2002

INTRODUCTION

In September of 2000, Justice Charles T. Wells established the Children's Court Improvement Committee to provide guidance to the judiciary on issues related to juveniles in delinquency and dependency court. In addition, the Florida Legislature authorized Family Courts Trust Fund dollars to support an assessment of Florida's juvenile delinquency court system. This authorization called for the Children's Court Improvement Committee to conduct a study of delinquency court case processing, from which reported findings would serve as the basis for future improvement initiatives. Therefore, as part of the committee's charge, Justice Wells directed the committee to oversee the efforts of this assessment, designed to:

- develop a descriptive report on delinquency courts and the role judges play in those courts;
- compare Florida's delinquency courts system with other states' courts;
- assess current practices and case processing results; and
- design and recommend strategies to enhance court processing of cases.

Justice Wells had heard expressions of concern regarding Florida's judicial handling of delinquency cases. He urged the committee to proceed with a factual analysis of how courts are performing their responsibilities in the delinquency system. He advised that the first task in this process was to gather information on how courts presently carry out their functions, and identify what obstacles prevent the processing of cases according to statute and rule. The delinquency court assessment was intended to gather information necessary to describe how delinquency cases are processed in Florida.

SPECIFIC AREAS OF STUDY

The delinquency court assessment features an analysis of the core events that may occur in the processing of a delinquency case:

- detention hearings;
- petition filings;
- arraignment proceedings;
- competency proceedings;
- transfers to adult court;
- trial frequency and outcomes; and
- disposition and the imposition of sanctions.

In addition, the assessment compiles demographic information such as age, race, and sex of the juvenile. It provides descriptive information on how various proceedings are conducted, the type of representation juveniles receive, and the kinds of dispositions and sanctions that are ordered by the court.

The report provides an analysis of delinquency case processing. However, the assessment does not evaluate local practice or examine those processes not directly controlled by the court. Therefore, while this assessment is a thorough review of various aspects of delinquency case processing, it does not analyze:

- the decision-making process leading up to the arrest of a juvenile or formal charges of a crime;
- the effectiveness of various agencies;
- the performance of individual judges;
- the quality or effect of diversion programs;
- a comparison of outcomes for delinquent juveniles in different levels of commitment; and
- the effectiveness of various sanctions imposed by the court.

ASSESSMENT METHODOLOGY

The delinquency court assessment utilized a three-tiered data collection approach consisting of case file reviews, court observations, and surveys and interviews of key stakeholders. A detailed research methodology section is included in the report.

A random sample of 350 delinquency cases was drawn from each of seven judicial circuits comprising a total of 22 counties. Files were reviewed utilizing a detailed data collection instrument. The sample size totaled

2,450 case reviews statewide and is sufficient to generalize to the statewide population of delinquency cases as well as to the individual circuits studied.

Staff observed hundreds of delinquency court hearings and developed descriptive findings on the conduct of those proceedings. This process was facilitated through the use of a court observation form developed to capture the time spent on a case, parties appearing before the judge, and issues generally addressed by the court.

Interviews of key stakeholders were conducted during circuit visits, and hundreds of surveys were distributed across the state. The surveys and interviews assisted staff in developing a snapshot of the perceptions and attitudes of the individuals who experience the process first hand.

FINDINGS

A thorough analysis of the data reveals that Florida's judicial performance exceeds expectations in many areas. In fact, some findings are contrary to national trends, other studies, or the conventional wisdom of some juvenile justice observers. The analysis also reveals that there is great opportunity for improvement. The following offers selected highlights of findings.

SECURE DETENTION

In 98 percent of detained cases, courts held detention hearings within 24 hours after the juvenile was taken into custody, as required by Florida law. Juveniles were securely detained at detention hearings in 18 percent of cases in the sample. According to statute, decisions regarding detention placement are to be based on a risk assessment of the juvenile. This assessment is performed by the Florida

Department of Juvenile Justice through a Detention Risk Assessment Instrument (DRAI). This instrument provides a standardized method of determining the need for detention placement, by accounting for such factors as offense, prior history, and aggravating circumstances.

Analysis of the data indicates that the Detention Risk Assessment Instrument score significantly increased the odds of being securely detained: each one point increase in the DRAI score increased the odds of being securely detained by 21 percent. After accounting or controlling for the effects of the DRAI score, demographics (age, race, sex), offense characteristics (felony, misdemeanor, property offense, person offense), and legal representation were not significant predictors of detention. The analysis did not control for other possible predictors, however, such as prior history and concurrent petitions.

ADJUDICATION

Florida's juvenile courts are required to commence an adjudicatory hearing within 90 days of the juvenile being taken into custody or the filing of a delinquency petition, whichever is first. Adjudicatory trials occurred in approximately five percent of the sample. In these cases, the median number of days from custody / petition to trial was 84.5 days. However, in 45.3 percent of these cases the trial commenced more than 90 days after the filing of the delinquency petition. The data did not indicate if juveniles waived speedy trial, which may have affected the proportion of cases that exceeded 90 days.

If the court determines that a juvenile has committed a delinquent act, it may adjudicate the juvenile delinquent or it may withhold this adjudication. Of those cases disposed, 62.1 percent resulted in an adjudication of

delinquency. Adjudication was withheld in the remaining 37.9 percent of cases.

The following were found to be significant predictors of delinquency adjudication:

- Age – Each additional year of age increased the likelihood of being adjudicated delinquent by 25.2 percent.
- Offense – Relative to crimes against persons, burglary and theft charges each increased the likelihood of being adjudicated delinquent.
- Secure Detention – The analysis found that the odds of a securely detained juvenile being adjudicated delinquent were 3.3 times greater than the odds of a non-securely detained juvenile.

DISPOSITION

For cases that plead guilty or no contest and do not go to trial, Florida's juvenile courts are meeting accepted time standards for case processing. Because Florida does not have statutory or rule time requirements for these cases, a national standard of 90 days was used as a benchmark with which to compare case processing times for the sampled cases. On average, non-trial cases were disposed in 90.4 days (mean).

In contrast, cases that did go to trial were on average disposed 142.4 days after the petition was filed (mean). This well exceeds the 90 day national standard. However, because only a small minority of cases have a trial (less than five percent), it may be concluded that, overall, Florida's courts process a majority of delinquency cases consistent with statutory requirements and national time standards.

To summarize, the sample data indicate the following time frames:

- Trial cases: 84.5 days from custody/petition to trial (median) and 142.4 days from petition to disposition (mean).
- Non-trial cases: 90.4 days from petition to disposition (mean).

The number of pretrial proceedings and the number of failures to appear significantly increase the number of days from the filing of the petition to the disposition of trial and non-trial cases:

- Each additional pretrial proceeding increases the time from petition to disposition by 24.6 days, on average.
- Each failure to appear increases the time from petition to disposition by an average of 30.9 days.

The court has many disposition options after adjudicating a juvenile, including:

PROBATION. In 59.5 percent of disposed cases, the juvenile received probation at disposition. Judges have great discretion in setting the conditions of probation. The three most common conditions of probation included community service (72.6 percent); school attendance (71.2 percent); and curfew adherence (57.1 percent).

COMMITMENT. Juveniles were committed to a facility in 29.5 percent of cases with a disposition. Increases in age and the Detention Risk Assessment Instrument score, burglary and theft crimes, and secure detention all increased the likelihood that a juvenile would be committed. No relationship was found between attorney representation and the likelihood of commitment; however, differences in type of representation were not accounted for, nor were differences in commitment level.

Recent empirical studies have found that the use of secure detention increases the

likelihood that a juvenile will be treated more harshly at case disposition. This is true even when demographic and legal factors are controlled. The findings from this delinquency court assessment are consistent with those of previous studies. After accounting or controlling for demographic variables, the plea, and the severity and type of offense, the data indicate that securely detained juveniles have odds of commitment that are three times greater than the odds of non-securely detained juveniles.

BALANCED AND RESTORATIVE JUSTICE PRINCIPLES. The balanced and restorative justice (BARJ) model promotes maximum involvement of the victim, the offender, and the community in the justice process. Its mission or philosophy consists of three primary principles: offender accountability, competency development, and community protection. The accountability component means having the juvenile take full responsibility for his or her actions, including taking steps to repair the harm done to the victim and/or community, as well as giving the victim an opportunity to be more involved in the process. The competency component means providing the juvenile with some life skills or competencies so she or he can be a more capable and productive citizen than before the juvenile committed the offense(s). Finally, the community protection component addresses the responsibility of the juvenile justice community to protect the public from delinquent acts committed by juveniles. While these three components form the foundation of the balanced and restorative justice model, there is no single or preferred way to implement the model.

The data from this assessment do not clearly indicate the extent to which Florida's juvenile courts integrate the balanced and restorative justice philosophy into their

practices. While the data indicate what types of sanctions are required by judges, such as community service and restitution, further research is needed to establish whether or not these sanctions are consistent with the goals of restorative justice. Furthermore, the sampled case files did not contain any consistent and measurable information about the victims' involvement in the process, their access to the court, or their satisfaction with case outcomes. These issues must be addressed as well in future research.

REPRESENTATION

In each type of proceeding, juveniles were represented by counsel more than 60 percent of the time. In the small number of cases that went to trial, every juvenile had a lawyer, with most (84.8 percent) being public defenders. Analyses of the data indicated that having representation did not significantly reduce the likelihood that juveniles would be adjudicated delinquent or committed to a facility. Differences in type of representation were not accounted for due to sample size considerations. In addition, the analyses did not test for differences in commitment level by type of representation. These are issues for further research. Additional findings regarding representation are available throughout the report.

DIVERSION

Diversion programs are generally designed to divert first time offenders with misdemeanor offenses from the court process. State attorneys, law enforcement, and the court may recommend diversion, but the juvenile must voluntarily decide to participate. The sample included cases only where a delinquency petition was already filed. Because most cases

are generally diverted prior to the filing of a petition, this assessment does not include a significant number of cases already diverted from the court system. Of the cases studied, 10.5 percent were diverted after the filing of a petition. Data indicate that 64.4 percent of these diversions were for misdemeanor offenses. Teen Court, arbitration, Intensive Diversion, and civil citation are the most common diversion programs utilized by circuits.

COMPETENCY

Forty-nine states, including Florida, mandate that a juvenile be competent to stand trial. Competency hearings were held in only 32 of the 2,368 cases included in the sample. Of these cases, 66 percent of the juveniles were found competent to proceed. The small number of cases from the sample precluded additional analysis of competency proceedings.

Perceptions regarding a juvenile's ability to understand delinquency proceedings were also addressed. Stakeholders from across the state were asked to quantify a juvenile's ability to generally understand the juvenile court process on a scale from one to ten, with ten being the highest level of understanding. Responses varied by profession. Fifty-five percent of public defenders rated a juvenile's understanding between one and five; 56 percent of state attorneys and judges rated it seven or higher.

TRANSFERS TO ADULT COURT

Existing Florida law provides a variety of mechanisms by which a juvenile may be transferred from juvenile delinquency court to adult criminal court for prosecution. In Florida most transfers occur via direct file

prior to the filing of a delinquency petition. This eliminated many transfer cases from the assessment. The total sample of 2,368 cases included only 20 cases that were transferred to adult court after the filing of a delinquency petition. Of these transfer cases, 63.2 percent involved felonies. The percentage of black and white juveniles who were transferred was identical at 45 percent.

DISPROPORTIONATE MINORITY CONFINEMENT

Empirical research consistently indicates that minority juveniles in general, and black juveniles in particular, are over represented at every stage of the juvenile justice system. In 2000 black juveniles comprised 21.2 percent of Florida's juvenile population. To the extent that black juveniles comprise more than 21 percent of cases in any stage of the juvenile justice process, there is evidence of minority over representation. Among initially detained juveniles in the sample, 45.2 percent were black, confirming that blacks are over represented in the state's detention caseload.

The causes of this racial disparity are difficult to document. The empirical literature regarding disproportionate minority confinement contains mixed findings. Many studies find direct or indirect race effects, while several other studies find the effects of race to vary across the decision-making points in the juvenile justice system, and still others are inconclusive. Published research has documented that black juveniles are more likely to be arrested and charged with delinquency; however, the research also indicates that given formal handling, black juveniles are not more likely than whites to be adjudicated delinquent.

Findings from the assessment regarding disproportionate minority confinement are

mixed as well. While black juveniles are proportionally over represented in the detention and commitment caseloads, race does not appear to be an independent predictor of detention, adjudication, or commitment. In other words, holding other variables constant, black and white juveniles have equal odds of being detained, adjudicated delinquent, and committed. The over representation of blacks may therefore be caused or produced by a variable or variables other than race, or the effect race has on these outcomes may be mediated or conditioned by other variables. These are issues for further research.

SURVEYS AND INTERVIEWS

Responses from judges, public defenders, state attorneys, and other professionals suggest that much more information should be made available to the court, prior to making their detention and/or disposition decisions. Survey data indicate that this is particularly necessary because many pre-disposition reports are incomplete and/or are not accurate. Additional information may include:

- parents' criminal/dependency history;
- school attendance/performance, including disciplinary actions;
- psychological and medical history;
- danger posed to the juvenile and others; and
- risk of flight.

In response to questions regarding training needs, surveyed judges expressed desire for training on:

- detention criteria;
- the commitment process;
- local programs and services available;
- mental health and substance abuse;

- communicating effectively with juveniles;
- the best means to promote positive change in a juvenile in a dysfunctional family;
- the psychology of dealing with adolescent

- and pre-adolescent juveniles; and
- dealing with abused and neglected children.