

PENNSYLVANIA CRIMINAL JUSTICE MANUAL

An Overview of the Juvenile Criminal Justice
System

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This document was created in 2006 as guide to Pennsylvania's Criminal Justice System for victim witness advocates and should only be used as a guide. It was last updated in 2006. Changes made to Pennsylvania's Criminal Justice System since 2006 are not reflected in this document.

JUVENILE LAW MANUAL

I. INTRODUCTION

The purpose of this Juvenile Law Manual is to provide an easy reference guide for victim-witness coordinators working in Juvenile Court, explaining the process by which a juvenile offender moves from arrest to disposition. Throughout this manual I have attempted to delineate the differences and similarities between Criminal and Juvenile Court, explaining that certain fundamental rights obtain in both settings. I have structured this manual so that the reader can first familiarize himself/herself with the purposes Juvenile Court serves, learn how juveniles first enter the system, and finally appreciate what role the Probation Department plays in the final disposition of a delinquent petition. Through each step of the proceedings I have made reference to the Crime Victims' Bill of Rights, 18 P.S. §11.201, effective November 24, 1998. Finally, while not all Judges sitting in Juvenile Court run their courtroom in exactly the same way, it is my hope that this Manual will effectively demystify Pennsylvania's Juvenile Court System.

Since preparation of this guide initially, the Pennsylvania Supreme Court enacted new procedural rules governing practice in the Juvenile Courts, effective October 1, 2005. These Rules are designed to effectuate the provisions of the Juvenile Act found at 42 Pa.C.S. §6301, et seq. The Rules are cited, "Pa.R.J.C.P." followed by the rule number. While citations in this outline are primarily geared to the Act, familiarity with the Rules is essential to the juvenile court practitioner.

II. THE JUVENILE ACT

A. PURPOSES

The Juvenile Act found at 42 Pa.C.S.A. §6301 et. seq. governs all delinquency proceedings in Juvenile Court. Judges sitting in Juvenile Court perform a different function than their Criminal Court (known in some counties as the Adult or Trial Division) counterparts. In the Juvenile Act's definitional section, the Act's purposes are clearly delineated. Judges presiding over delinquency proceedings are to enter disposition orders which: 1) ensure the protection of the community; 2) hold the juvenile accountable; and 3) provide for the juvenile's competency development. Prior to March 18, 1996, the Juvenile Court's main aim was to provide services to juveniles adjudicated delinquent, focusing solely on the needs of the delinquent. Disposition orders then paid scant attention to the interests of the victim let alone the community. In 1996 the Legislature amended the Juvenile Act to insure Juvenile Court Judges would fashion dispositional orders that went beyond just providing delinquents with treatment. Known as the **Balanced Approach**, the Juvenile Act now compels judges to give balanced attention to protecting the community, guaranteeing the delinquent's competency development, and insuring he is held accountable.

B. JURISDICTION

Juvenile Court has jurisdiction over any juvenile who commits a delinquent act after his tenth birthday and before his eighteenth birthday. Juvenile Court, however, may supervise a delinquent until he¹ turns 21. Consequently, Juvenile Court has jurisdiction over an offender who committed an offense before his eighteenth birthday even if not apprehended until after he turned eighteen, as long as he was less than twenty-one.

The Juvenile Act expressly defines **delinquent act** as **any act designated a crime under state law, federal law, or local ordinances as well as indirect criminal contempt under the Protection from Abuse Act**, 42 Pa.C.S.A. §6302. Despite this broad definition, there is some illegal behavior which the Juvenile Act does not delineate a delinquent act.

First, Criminal Court, rather than Juvenile Court, has jurisdiction over juveniles charged with murder as

¹While the masculine pronoun will be used throughout this manual, it is important to note that 20% of Pennsylvania's delinquents are female.

murder is specifically excluded from the definition of "delinquent act", 42 Pa.C.S.A. §6302.

Second, juveniles age 15 or older arrested for certain specific "direct file" felonies, i.e., 1) Aggravated Assault as felony of the first degree; 2) Aggravated Indecent Assault; 3) Carjacking; 4) Involuntary Deviate Sexual Intercourse; 5) Kidnapping; 6) Rape; 7) Robbery of the first degree; 8) Voluntary Manslaughter; or 9) Conspiracy to commit any of the above-mentioned crimes are charged in Criminal Court when committed at point of deadly weapon.

Similarly, Criminal Court has jurisdiction over juveniles age 15 or older charged with a "direct file" offense and previously adjudicated of certain specifically delineated felonies, i.e., 1) Aggravated Indecent Assault; 2) Carjacking; 3) Involuntary Deviate Sexual Intercourse; 4) Kidnapping; 5) Rape; 6) Robbery of the first degree; 7) Voluntary Manslaughter; 8) Conspiracy to commit murder or any of the above-mentioned crimes. The offender will then initially have no contact with Juvenile Court though it is possible for him to file a motion to be decertified, that is, transferred from Criminal Court to the Juvenile Court. This procedure will be discussed later in this manual.

Third, Juvenile Court does not have jurisdiction over any offenses committed by a juvenile once he suffers a conviction in Criminal Court. It can be assumed the legislators reasoned that once an offender had been subjected to the Criminal Court's procedures and sentencing schemes, it would be foolhardy to afford him the Juvenile Act's protection. Fourth, the Juvenile Court will not extend its jurisdiction to an offender who committed a delinquent act while a juvenile but either eluded capture or court appearance until after he turned 21. Finally, the Juvenile Court does not have jurisdiction over an offender charged only with a summary offense such as underage drinking or retail theft where the merchandise's value is less than \$150.00; however, if a juvenile is cited for a summary offense and fails to comply with the punishment he receives, then such non-compliance may be certified to Juvenile Court, resulting in a Juvenile Court Judge entering a disposition order placing the juvenile either on probation or in juvenile placement. Additionally, if the juvenile is charged with both summary offenses and delinquent acts, then the Juvenile Court will assume jurisdiction over the entire criminal incident.

C. VENUE IN JUVENILE COURT

A delinquency petition may be filed either in the county where the juvenile resides or where the delinquent act occurred. This is a distinction from Criminal Court where charges are brought in the county where the offender commits the crime. Consequently, it is possible that a juvenile may be adjudicated delinquent in a county where he does not reside. In this circumstance, the Juvenile Court Judge may opt either to return

the delinquent to his home county for a disposition hearing or to place the delinquent on probation and to transfer his supervision to his county of residence. In the event the juvenile commits a delinquent act in Pennsylvania but resides outside the Commonwealth then the Juvenile Court's only option is to place the delinquent on probation and transfer supervision to the delinquent's home county. 42 Pa.C.S.A. §6321.

D. COMMENCEMENT OF PROCEEDINGS IN JUVENILE COURT

While the practice varies among counties, charges are usually recommended to the Juvenile Court by the preparation and filing of a delinquency petition by the District Attorney's Office. The petition includes the juvenile's name, address and age as well as the name and address of the juvenile's guardian, and spouse if any. Additionally, the petition alleges the underlying facts on which the petition is based, asserting that such petition is both in the juvenile's best interest and that he is in need of rehabilitation, supervision, and treatment. In some counties the petition would also contain the specific delinquent acts (i.e. robbery, theft, simple assault, etc.) with which the juvenile is to be charged. 42 Pa.C.S.A. §6334.

Proceedings may also be initiated by the Criminal Court ordering a juvenile returned to the Juvenile Court for further proceedings or by Juvenile Court accepting supervision of or jurisdiction over a resident juvenile adjudged delinquent elsewhere. Finally, the Juvenile Court may initiate proceedings simply by a juvenile being taken into custody, though presumably the Court would still demand a delinquency petition be prepared prior to the juvenile's adjudication hearing. 42 Pa.C.S.A. §6321.

Regardless of how the Juvenile Court comes to accept jurisdiction, it is the Probation Department which determines in the first instance whether the juvenile is released or detained. Unlike Criminal Court, juveniles are not entitled to bail in Juvenile Court. The Probation Department may choose to hold a juvenile where any of following six factors exist: 1) in order to protect others; 2) in order to protect the juvenile; 3) where the juvenile has no guardian; 4) where the juvenile lacks a means of support; 5) if the Probation Department has reason to believe the juvenile will not appear at further Juvenile Court proceedings; or 6) if the Probation Department has reason to believe the juvenile will be removed from the jurisdiction. 42 Pa.C.S.A. §6325. Pursuant to the Crime Victims' Bill of Rights, victims are entitled to learn not only whether the District Attorney's Office or the Probation Department elected to file a delinquency petition but also whether the Probation Department detained or released the juvenile at time of arrest. 18 P.S. §11.201(2)(i). If the Probation Department elects to hold the juvenile then a detention hearing must be scheduled within 72 hours with notice of same to be afforded both the juvenile and his guardian. 42 Pa.C.S.A. §6332. The detention hearing provides the Juvenile Court with the first opportunity to review not only the petition's legal basis but also the Probation Department's decision to detain the juvenile.

Furthermore, at the detention hearing the Court apprizes the juvenile of his right to counsel and to remain silent. It should be noted that in some counties a master rather than a judge presides over juveniles' detention hearings.

E. DIVERSION OF JUVENILE PETITIONS

There are instances where the Police Department, the District Attorney's Office, or the Probation Department may elect either not to file or to divert a delinquency petition.

1. Remedialization

First, a Police Department may choose a remedial disposition or not to charge the juvenile despite the fact that state or local law support the filing of a delinquency petition. Usually the Police Department bases this decision on 1) the nature of the delinquent acts; 2) the juvenile's family situation; and 3) the juvenile's lack of prior contacts with the juvenile justice system. In most instances a Police Department makes this decision unilaterally, without consulting either the District Attorney's Office or the Probation Department.

2. Diversion

Second, even where a Police Department opts to charge a juvenile, the Probation Department may elect to divert his petition prior to its being filed through the adjustment process. As with the decision to opt for remedial disposition following a juvenile's arrest, a delinquency petition's adjustment is usually based on 1) the charges to be referred; 2) the juvenile's lack of contacts with the Juvenile Justice System; and 3) the juvenile's home environment. While the Juvenile Act provides a Probation Officer with fairly wide latitude in determining when to adjust a juvenile's petition, such adjustment nonetheless must be designed to accomplish the Juvenile Act's three purposes: 1) to protect the community; 2) to hold the juvenile accountable; and 3) to augment the juvenile's competency development. For example, the Probation Department may condition such adjustment on the juvenile's agreement to attend counseling for up to six months. It should be further noted that under the Crime Victims' Bill of Rights, victims are entitled to notice of and the right to be heard concerning the Probation Department's intent to adjust a delinquency petition by diversion of the case by informal adjustment or consent decree. 18 P.S. §11.201(4).

3. Consent Decrees

Where a petition alleging delinquency is referred to Juvenile Court, the offender may be offered a consent

decree. Under a consent decree, the juvenile is placed on probation for no more than six months. A Juvenile Court Judge, however, may either unilaterally or on the Probation Department's motion extend the consent decree, meaning the probationary period is continued for an additional six months. The District Attorney's Office must approve all consent decrees and may condition its approval on the juvenile's agreement to fulfill certain specific requirements such as attending school on a daily basis, paying restitution, having no further contact with the victim, and performing community service. Unlike diversion by adjustment, if the juvenile violates the consent decree either by failing to fulfill the delineated requirements, or experiencing another arrest, the District Attorney's Office may open or terminate the consent decree and schedule the case for an adjudicatory hearing. 42 Pa.C.S.A. §6340. As with adjustments, the Crime Victims' Bill of Rights provides victims with notice of and the right to be heard concerning the District Attorney's intent to offer a consent decree to a juvenile charged with Priority Crimes.

4. Youth Aid Panel/Youth Diversion Committee

Finally, some counties divert delinquent petitions through either the Youth Aid Panel or Youth Diversion Committee. Pursuant to this program, the juvenile together with his guardian enters into a contract admitting the juvenile engaged in the charged delinquent behavior and agreeing to abide by the punishment set by either the Panel or Committee. Youth Aid Panels or Diversion Committees are made up of citizen volunteers who usually reside in the same neighborhood as the juvenile. The panel is charged with examining not only the juvenile's delinquent behavior but also his behavior in the home and at school. Additionally, while the juvenile is under contract, the panel will assign one of its members to monitor the juvenile's behavior. The juvenile will be under contract for up to three months though this period can be extended if necessary. If during this period the juvenile both successfully completes his contract and stays out of any further trouble, his case will be discharged. On the other hand, if the juvenile violates the contract's terms or experiences another arrest, he will be referred to the Juvenile Court for further action. Youth Aid Panels or Diversion Committees can be administered by the District Attorney (i.e. Philadelphia County), the Probation Department (i.e. Bucks County), or the local Police Department (i.e. Manheim Township, Lancaster). The Crime Victims' Bill of Rights provides that if a juvenile charged with a Priority Crime is to be offered this diversion program, then the victim is entitled to notice and the right to be heard.

F. THE SCHEDULING OF THE ADJUDICATION HEARING

Upon the filing of the juvenile's petition, the Juvenile Court schedules an **adjudication hearing** taking into account the juvenile's custody status. As with the detention hearing, it is the responsibility of the Probation

Department to notify the juvenile's guardian of the date for the adjudication hearing. If the juvenile is in custody, he is entitled to have his adjudication hearing held within ten days. If on that date the adjudication hearing does not go forward, the Court may keep the juvenile in custody for good cause shown. 42 Pa.C.S.A. §6335. The Juvenile Act expressly states that a judge should not release the juvenile where the adjudicatory hearing is delayed as a result of either the juvenile or his counsel. If the juvenile is not in custody then the Court will schedule the juvenile's adjudicatory hearing on a date consistent with its calendar. Pursuant to the Crime Victims' Bill of Rights, the victim is to receive notice that an adjudicatory hearing has been scheduled.

The Juvenile Act strictly regulates where and under what circumstances a juvenile may be held in custody while awaiting disposition of his case. Taking a child into custody may be accomplished: 1) pursuant to order of court, where the court has determined that allowing the child to remain in the custody of his parent or guardian is contrary to the best interests of the child; 2) pursuant to the laws of arrest; 3) by a law enforcement officer or duly authorized officer of the court who has reasonable grounds to believe that the juvenile is ill or injured or in imminent danger from his surroundings; 4) by a law enforcement officer or duly authorized officer of the court who has reasonable grounds to believe that the juvenile has run away from his home; 5) by a law enforcement officer or duly authorized officer of the court who has reasonable grounds to believe that the juvenile has violated the terms of his probation. 42 Pa.C.S.A. §6324.

Once a child is in custody, he may not be placed in a shelter or detention center prior to an adjudication hearing unless such placement is necessary for the welfare of the child, or the child may flee the jurisdiction of the court, or the child has no parent or guardian who can provide for the child's welfare and assure the court of his return to court for further hearings, or because he has been committed previously under the provisions of the Act. 42 Pa.C.S.A. §6325.

The person taking the child into custody must with all reasonable speed notify the parent(s) or guardian(s) of the child, release the child to the custody of the parent(s) or guardian(s) unless that is not possible for the reasons set out in the paragraph above; or deliver the child to the court or approved detention or medical facility if the child is in need of prompt medical treatment. 42 Pa.C.S.A. §6326(a).

Except where a juvenile is alleged to have committed a crime or summary offense while under probation or supervision following an adjudication of delinquency, he may not be held in a police lockup or other adult holding facility. In those circumstances where lockup in an adult facility is permitted by the Act, it must be only for the purpose of identification, processing and release to parent or guardian, not to exceed six hours of secure holding, and insulated from the sight and sound of adult offenders while under

continuous visual supervision by law enforcement or facility staff. 42 Pa.C.S.A. §6326(c). If the child is held in an adult facility but under non-secure confinement, similar restrictions apply. 42 Pa.C.S.A. §6326(d).

The Act does describe the facilities in which a child alleged to have committed a delinquent act, may be detained. 42 Pa.C.S.A. §6327.

If a juvenile case has been transferred to adult court, the juvenile may be remanded to the custody of “the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.” The court may also consider allowing the child to remain in a juvenile facility if the child is unable to make bail. 42 Pa.C.S.A. §6327(d).

G. THE ADJUDICATION HEARING

While the purposes of Juvenile and Criminal Court may differ in certain important respects, they follow identical procedures in safeguarding many of the offender's rights. Thus, the Commonwealth must always prove its case beyond a reasonable doubt, and the juvenile is always entitled to be represented by counsel. 42 Pa.C.S.A. §6337. Moreover, the juvenile may challenge the Commonwealth's evidence both by pursuing pre-adjudication hearing motions and cross-examining the Commonwealth's witnesses. For example, the juvenile through his counsel may pursue a motion to suppress either his confession, or the Commonwealth's physical evidence (e.g., drugs, gun). Additionally, as in Criminal Court, the juvenile may elect to remain silent or to put forward a defense including calling witnesses or taking the stand. 42 Pa.C.S.A. §6338. On the other hand, unlike Criminal Court defendants, juveniles do not have the right to a jury trial. 42 Pa.C.S.A. §6336(a).

Both the Juvenile Act and the Crime Victims' Bill of Rights impact the role victims and witnesses play during the adjudicatory hearing. As a result of the 1996 amendments to Juvenile Act, the public has gained much greater access to adjudicatory hearings. First, hearings may always be attended by the juvenile, parties to the case, witnesses, an individual accompanying a party for his assistance, or an individual the Court determines to have a legitimate interest either in specific delinquency proceedings or the work of the Juvenile Court. 42 Pa.C.S.A. §6336(d). Second, hearings are generally open to the public where the juvenile is at least 14 years of age and charged with any crime that is graded as a felony. 42 Pa.C.S.A. §6336(e)(1). Third, hearings are generally open to the public where the juvenile is at least 12 years of age and charged with: 1) Murder; 2) Voluntary manslaughter; 3) Aggravated assault; 4) Arson; 5) Involuntary deviate sexual intercourse; 6) Kidnapping; 7) Rape; 8) Robbery; 9) Car jacking; or 10)

Conspiracy to commit any of the foregoing. 42 Pa.C.S.A. §6336(e)(2). While there is now greater leeway for the public to observe a delinquent's adjudicatory and dispositional hearings, the Court still has the latitude to keep confidential not only the delinquent's probation reports but also his mental health, medical, or institutional documents. 42 Pa.C.S.A. §6336(f). Similarly, it should be noted that the District Attorney and juvenile can agree to close any court proceedings. 42 Pa.C.S.A. §6336(e)(2). Pursuant to the Crime Victims' Bill of Rights, the victim has the right to be informed immediately of the juvenile's pre-adjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension. 18 P.S. §11.201(2)(ii). Finally, the Court must provide the victim with the opportunity to attend all hearings together with a family member, victim advocate or individual necessary for assistance or support. 18 P.S. §11.201(3). While there is no uniform practice among the counties, the Juvenile Act expressly permits the District Attorney's Office to participate in the adjudicatory hearing. 42 Pa.C.S.A. §6336(b). As a result, in some counties, the District Attorney or his representative presents the case, taking the lead role in proving the delinquent acts set forth in the juvenile's delinquency petition. However, in other counties, the Probation Department participates in the adjudicatory process, filing the petition and aiding in the presentation of the evidence.

Because the prosecution must prove the delinquent acts alleged beyond a reasonable doubt, it is imperative that both victims and witnesses cooperate. So, for example, as in Criminal Court, the Juvenile Court Judge will require the prosecutor to call witnesses to the stand and to elicit live testimony in the juvenile's presence. The adjudication hearing in most instances commences with the Judge asking the prosecution to call its first witness to the stand.

Commonly, before any testimony is received into evidence however, the prosecutor and counsel for the juvenile will make what is called a sequestration motion. This motion if granted has two requirements: 1) the District Attorney and juvenile's witnesses remain outside the courtroom until called to testify, and 2) no witness may discuss his testimony with any other witness. In this way each side is assured a fair hearing -- witnesses only testify to what they have personal knowledge of, free of any other witness's influence. In the majority of cases the Juvenile Court Judge will grant the sequestration motion. It should be noted that sequestration will be dissolved once all evidence has been received, meaning all witnesses are permitted inside the courtroom to listen to the prosecutor's and defense counsel's closing arguments.

Following direct examination of each its witnesses by the prosecution, counsel for the juvenile will be given the opportunity to cross-examine each witness. Either side may object to questions asked of witnesses by the other based on the form of the question, admissibility of evidence, relevance, etc. The Court rules on the objections as they are made. When the Judge says that an objection is "sustained," it means that the

Judge agrees with the attorney's objection to the question. The question is considered a nullity and the witness does not have to respond or, if the objection is to the admissibility of a document or physical evidence, the evidence is not received into the record. When the Judge says that an objection is "overruled," it means that the Judge does not agree that the objection is valid, the question remains on the record and the witness is required to respond or the document or physical evidence to which the objection was raised is admitted into the record.

When the prosecutor has completed presentation of its case-in-chief and rests, meaning that all of the evidence to prove the crime and the identity of the perpetrator has been presented, counsel for the juvenile may elect to call witnesses in his defense. 42 Pa.C.S.A. §6338(a). The prosecutor is similarly provided the opportunity to cross-examine any witness the juvenile presents. Finally, either side may call witnesses in rebuttal. These are witnesses who can offer testimony which calls into question the testimony of the witnesses presented by the other side. After the Court receives into evidence all testimony and any exhibits, the Judge must determine whether the juvenile is guilty of any or all of the delinquent acts charged. This decision may be rendered immediately or at some later date, not to exceed seven days. 42 Pa.C.S.A. §6341.

H. THE DISPOSITION HEARING

Unlike Criminal Court, a Juvenile Court Judge is charged with the duty of not only determining whether an accused juvenile is has committed a delinquent act beyond a reasonable doubt or not, the Judge must also determine whether the juvenile is in need of rehabilitation, supervision, and treatment. The Juvenile Court Judge usually makes this decision after a **Disposition Hearing**. At this hearing, the Judge will consider not only the nature of the delinquent acts which the juvenile has been found to have committed, but also the juvenile's behavior at home and in school including grades and attendance. Consequently it is not uncommon for the Court to schedule the disposition hearing on a date after the adjudication hearing in order to provide the Probation Department with the opportunity to prepare reports and to conduct tests on the juvenile. In this way, the Court will be fully informed concerning the juvenile including his behavior at home, at school, and among his peers. How long the Court may delay the disposition hearing is contingent on the juvenile's custody status. If the juvenile is in custody the disposition hearing must be held not more than 20 days after the finding of delinquency, or not more than 60 days following adjudication if the child is not in custody. It should be noted that the Crime Victims' Bill of Rights provides for victims to be kept apprized of the scheduling of the disposition hearing. At the disposition hearing the Court considers evidence of the juvenile's need for rehabilitation, supervision, and treatment. If the Court finds the juvenile guilty of a felony then absent evidence to the contrary, the Juvenile Act requires the Court to adjudicate

the juvenile delinquent. At the disposition hearing the Court will usually entertain recommendations from the prosecutor, the Probation Department and counsel for the juvenile. Additionally, the Crime Victims' Bill of Rights provides for the Court to consider either an oral or written victim impact statement. 18 P.S. §11.201(5).

If, at the conclusion of the adjudication hearing, the Court is not convinced beyond a reasonable doubt that the juvenile has committed a delinquent act, the delinquency petition is dismissed and the juvenile is discharged. On the other hand, if the Court adjudicates the juvenile delinquent, there are a variety of dispositional alternatives from which the Court may choose. Unlike Criminal Court, a judge is not limited either to placing the delinquent on probation or in jail nor must he adhere to sentencing guidelines. Consequently, certain sentencing laws and schemes such as Megan's Law or the "Three Strikes" Law have no applicability in Juvenile Court. Nonetheless, as in Criminal Court, where a juvenile is adjudicated delinquent of certain sexual offenses, the Court is mandated to order DNA collection prior to the juvenile being discharged from supervision. 42 Pa.C.S.A. §6358.

The Juvenile Act mandates that the Court fashion a disposition order in keeping with the Balanced Approach: 1) to protect the community; 2) to hold the delinquent accountable; and 3) to provide competency development. For example, to protect the community the Court may order the delinquent to stay away from the victim, and where appropriate to participate in sex offender counseling or drug and alcohol treatment; to hold the delinquent accountable the Court may order him to pay restitution, fines or costs, and to complete community service hours; and to promote competency development the Court may order the delinquent to obtain an education. The Court may place the delinquent on probation or commit him to a facility for delinquents. 42 Pa.C.S.A. §6352. This decision is within the Court's discretion and is usually dependent on the nature of the delinquent acts committed, the delinquent's prior contacts with the Juvenile Court System, the guardian's ability to control the delinquent inside the home, and the delinquent's school record. While both commitments to probation and delinquent placement are open-ended contingent on the delinquent's progress, the Juvenile Act limits a court's commitment to 4 years or the sentence the delinquent would have received had he been prosecuted in Criminal Court, whichever is less. Commonly, delinquents remain in placement for anywhere from 9 months to a year. Additionally, a delinquent, while in placement, is entitled to have his progress reviewed periodically. The Crime Victims' Bill of Rights mandates that if a juvenile has been adjudicated of a Priority Crime, then the victim upon request may be kept apprized of all review hearings. 18 P.S. §11.201(5.2).

Delinquents may be committed either to secure or non-secure placements. If a delinquent is placed in a non-secure setting, the placement has the discretion to award the delinquent periodic home passes.

However, it is possible for the Court to limit the number of home passes the delinquent receives. It should be noted that pursuant to the Crime Victims' Bill of Rights, a victim is entitled to receive upon request not only a juvenile's final disposition but also prior notice of any home passes or discharge from placement. Similarly, a victim may ask to be apprized if a delinquent leaves official detention, fails to return from a home pass, and in either circumstance when he is ultimately apprehended. 18 P.S. §11.201(8.1).

The Probation Department is responsible for notifying the juvenile's school of the delinquent acts he committed and the disposition order the Court entered. 42 Pa.C.S.A. §6341(b.1). Additionally, if the Court adjudicates the juvenile delinquent of a felony, then the Probation Department must provide the school with current and former probation and treatment reports. In all instances, the Probation Department must furnish the school with that information deemed necessary for the delinquent's rehabilitation.

As part of its disposition order, a Court may require a delinquent to pay restitution; however, the amount a Court orders must be reasonably related to the delinquent's ability to pay, taking into consideration his age, and physical and mental capacity. 42 Pa.C.S.A. §6352(5). The Probation Department must supervise the delinquent until he completely satisfies this restitution order. If the delinquent fails to satisfy an outstanding restitution order by the time he turns 21, the Court may reduce the restitution order to judgment, meaning a civil judgment is entered against the offender. Prior to the Juvenile Act being amended in 1996, a delinquent could expect any outstanding restitution orders to be automatically discharged once he turned 21. Today, restitution orders may survive despite the Juvenile Court losing jurisdiction. If a restitution order is reduced to judgment then such judgment would permit a lien to be placed against any real personal property the offender might acquire as an adult. Furthermore, the judgment will appear on the offender's credit history should the offender attempt to obtain a mortgage or loan. The Juvenile Act mandates that such restitution order be reduced to judgment if the delinquent had outstanding restitution in excess of \$1000.00. Otherwise, the decision is left to the Court's discretion.

A Juvenile Court Judge may extend its disposition order to the delinquent's parents. For example, the Court may order the delinquent's guardian to perform community service, to attend counseling or educational programs, or to pay restitution.

Chapter 64 of the Juvenile Act deals with Court-Ordered Involuntary Treatment of Certain Sexually Violent Persons. It subjects sexually violent delinquent children who, due to mental abnormality or personality disorder, have serious difficulty controlling sexually violent behavior and present a danger to the public, to civil commitment. 42 Pa.C.S.A. §6401, et seq. Such a commitment requires an additional hearing at which the juvenile is accorded the same constitutional protections afforded at the adjudication hearing. 42

Pa.C.S.A. §6404. If the Judge finds “clear and convincing” evidence that the juvenile meets the criteria for commitment under this Act, he/she must enter an order for the involuntary commitment of the juvenile to an inpatient facility. “Clear and convincing” evidence is a burden of proof which is less onerous than the “beyond a reasonable doubt” standard required to prove delinquency in the adjudication hearing, but more than a “preponderance of the evidence”, the burden used to establish liability in a civil action.

A commitment under the provisions of this Act continues for up to one year in duration with annual reviews. The commitment may be extended for additional one-year periods following a hearing if the Judge determines based on clear and convincing evidence that the juvenile continues to have serious difficulty in controlling sexually violent behavior due to mental defect or personality disorder. 42 Pa.C.S.A. §6404. Discharge from commitment may result from the filing of a petition by the director or designee from the facility where the juvenile was committed concluding that the juvenile no longer has serious difficulty in controlling sexually violent behavior. Following a hearing on the petition, the Judge must again determine by clear and convincing evidence whether the juvenile continues to be in need of treatment. If so, the Judge must order that the person be re-committed for the balance of the commitment period; if the Judge is not convinced that the person continues to be in need of treatment, the Judge must order the discharge of the person. 42 Pa.C.S.A. §6404(c)(3).

I. ADMISSIBILITY OF DELINQUENCY IN OTHER PROCEEDINGS

The fact that a Court has adjudicated a juvenile delinquent is admissible not only in other delinquency proceedings but also in any subsequent Criminal or Civil Court proceedings. Consequently, if the District Attorney or the Probation Department files another delinquency petition against the juvenile, then at that petition's disposition hearing, the Court would be able to consider not only that he had been formerly adjudicated delinquent, but also whether the disposition ordered as a result of the former delinquency petition ultimately effectuated the Juvenile Act's purposes. Additionally, a fact finder could be apprized of a delinquent's history at a subsequent hearing in Juvenile, Criminal, or Civil Court if the delinquent sought to testify and had been adjudged delinquent of an act considered by the courts to bear on one's credibility, e.g., 1) Robbery; 2) Theft; 3) Receiving stolen property; 4) Burglary). Finally, if the delinquent was arrested and convicted in Criminal Court, the Criminal Court Judge would be able to consider his juvenile record at time of sentencing. 42 Pa.C.S.A. §6354.

J. EXPUNGEMENT

Juveniles may seek expungement of their records under only limited circumstances. Except upon the

District Attorney's compelling objection, expungement will be granted in the following three scenarios: 1) where the District Attorney withdraws or the Court dismisses the delinquency petition; 2) where the District Attorney's Office diverted a juvenile's delinquent petition by way of a consent decree, more than six months have elapsed since the juvenile's final discharge and no proceeding seeking adjudication or conviction is pending; 3) where five years have elapsed since the juvenile's final discharge from either placement or probation, the juvenile has no matters pending in either Juvenile or Criminal Court, and the juvenile has suffered no subsequent convictions or adjudications. In all other instances, the juvenile will have to be at least eighteen years of age and the District Attorney's Office will have to agree to the expungement. The Court is mandated to provide the District Attorney's Office with notice of all applications for expungement.

K. CERTIFICATION–TRANSFER FROM JUVENILE TO CRIMINAL COURT

In some cases, the District Attorney's Office or the Probation Department, depending on the county, will file a motion with the Juvenile Court to transfer the juvenile to Criminal Court. Certain factors must be present in order for this motion to be made: 1) the juvenile must be at least 14 years of age at the time of the alleged conduct; 2) the juvenile must be charged with an offense which would be considered a felony if charged in Criminal Court; 3) the District Attorney's Office or the Probation Department, depending on the county, must provide the juvenile, his guardian, and counsel with written notice of the intent to transfer at least three days prior to the hearing. 42 Pa.C.S.A. §6355. Pursuant to the Victims' Bill of Rights, the victim must also be notified of such a hearing. 18 P.S. §11.201(2).

The transfer hearing is divided into two parts. In the first part, the District Attorney's Office presents a *prima facie* hearing, establishing that more likely than not a crime has occurred and this juvenile committed it. In the second part, the District Attorney conducts a public interest hearing, providing the Court with evidence as to why the juvenile is not amenable to rehabilitation under the provisions of the Juvenile Act, and should be tried in Criminal Court. It should be noted that in some cases the burden actually lies with the juvenile to prove why he should be tried in Juvenile Court. For example, if the juvenile is 14 and charged with committing an offense at point of deadly weapon, the Juvenile Court Judge will look to him to prove that society would nonetheless be protected were he to be adjudicated delinquent (as opposed to convicted and sentenced to jail). Similarly, the Juvenile Act places the burden on the juvenile if he is 15, previously adjudicated of any felony and the District Attorney makes out a *prima facie* case for: 1) Rape; 2) Involuntary deviate sexual intercourse; 3) Aggravated assault; 4) Car jacking; 5) Voluntary manslaughter; or 6) Conspiracy to commit any of above-mentioned crimes.

Regardless of who bears the burden at the public interest hearing, the Juvenile Court Judge must consider whether society is more likely to be protected if the juvenile stands trial in Juvenile or Criminal Court. The Juvenile Act sets forth several specific factors to aid a Judge in making this decision: 1) the impact on the victim; 2) the impact on the community; and 3) the juvenile's level of culpability in the criminal episode. So for example, the judge might consider whether a juvenile charged with a gun-point robbery actually brandished the gun or was merely the get-away driver. The Court must also to consider the juvenile's age, prior attempts at rehabilitation, and the length of time the Juvenile Court System has left to work with the offender. For example, a transfer motion brought against a juvenile age 15 stands in a very different posture from a juvenile age 17 years 11 months. Finally, the Court should consider the resources it has available, and the juvenile's maturity level, criminal sophistication, and mental capacity including whether the juvenile is committable or mentally ill. If the latter is true, the Court will usually deny the District Attorney's transfer motion, allowing the juvenile to move to disposition in Juvenile Court.

At the public interest hearing both the District Attorney's Office and counsel for the juvenile may elect to call live witnesses to the stand, including the victim, Police Officers, Probation Officers, social workers, counselors, or teachers. It is therefore imperative that the victim be available to participate. It is not unheard of for a Probation Officer to intend to recommend a juvenile be found amenable then change his opinion upon meeting the victim, finally appreciating to what he or she was subjected as a result of the juvenile's conduct.

The Juvenile Act also provides for the juvenile to agree to transfer to Criminal Court, though this tends to happen only rarely given the sentencing alternatives available in Criminal Court.

If the Court grants the District Attorney's motion to transfer, bail is immediately set and all further proceedings will take place in Criminal Court. 42 Pa.C.S.A. §6355(b).

A Court's decision to grant the District Attorney's transfer motion is an interlocutory one, meaning the juvenile may only challenge the decision at the conclusion of the proceedings in Criminal Court. On the other hand, if the Court decides to deny the District Attorney's transfer motion, the District Attorney may appeal the denial immediately. In such a case, judges enjoy broad discretion in determining who is amenable, making the District Attorney's burden on appeal very heavy. As with the scheduling of adjudicatory and dispositional hearings, the Victims' Bill of Rights requires the District Attorney to keep a victim apprized of all transfer proceedings from Juvenile Court.

L. DECERTIFICATION–TRANSFER FROM CRIMINAL TO JUVENILE COURT

As mention earlier in this manual, certain juveniles are charged initially in Criminal Court as a result of their having committed offenses excepted from the definition of delinquent act. Nonetheless, the Juvenile Act provides for a procedure whereby defense counsel may file a decertification motion, requesting the offender be returned to Juvenile Court. As with certification, this motion is usually not filed until after the offender has had his preliminary or probable cause hearing, been held for court and arraigned. A Criminal Court Judge may only grant an offender's decertification motion where such would serve the public interest, taking into account the same factors Juvenile Court Judges consider in a certification hearing. However, unlike a certification motion, the burden lies always with the moving party (the offender). Similar to a certification hearing in Juvenile Court, both the District Attorney and defense counsel may call live witnesses including the victim, representatives from juvenile facilities, and psychologists. As with decertification motions, Criminal Court Judges must give priority to protecting society. Nonetheless, Criminal Court Judges have fairly wide discretion in granting or denying such a motion, making a successful appeal of such a decision extremely unlikely.

If a Criminal Court judge grants a decertification motion, he/she must, within twenty days, issue findings of fact and conclusions of law or the offender's decertification is rendered a nullity. Once an offender is decertified, he is likely to be rearrested and the District Attorney's Office or Probation Department will prepare a delinquent petition. The juvenile will then be scheduled for an adjudication hearing. In some instances the District Attorney may agree that the offender be decertified conditioned on the offender's agreement to admit to the delinquent acts contained in the petition. It should be noted that the Victims' Bill of Rights requires the District Attorney's Office to notify victims of all hearings related to the transfer of an offender from Criminal Court.

Finally, some offenders charged in Criminal Court while not decertified may ultimately be found guilty only of misdemeanors. Prior to March 1996, Criminal Court Judges could unilaterally return an offender to Juvenile Court for a dispositional hearing. In light of the Juvenile Act's amendments, this procedure is only possible with the District Attorney's consent.

M. CONCLUSIOIN

It is my hope that this Juvenile Law Manual has provided the reader with a significant body of information about Juvenile Court, its practices and procedures. As this Manual makes clear, Juvenile Court Judges must treat the offenders who appear before them in a different manner than they would adults, focusing

not only on whether the prosecution has met its burden of proof but also on what rehabilitative services will best serve the delinquent and insure the community's protection.