

Juvenile Justice Pandemic Lessons

The Juvenile Jurisdiction Advisory Committee (JJAC) met on May 15th. The meeting began with a [presentation](#) from William Lassiter, Deputy Secretary for Juvenile Justice. While the goal of the presentation was to provide data on trends since implementation of raise the age and the resulting resource needs, the presentation included information and data about juvenile justice system trends during this unprecedented pandemic. The data left me wondering—can changes in juvenile justice system utilization during the pandemic teach us lessons for the functioning of the system outside of a pandemic?

Juvenile Detention Utilization

Among the many updates [posted](#) on the website of the Department of Public Safety (DPS) related to COVID-19 is a statement that one of the operational changes instituted to protect the health and safety of staff, juveniles, and their families has been “[d]ecreasing the number of youth in detention through the utilization of electronic monitoring.” The JJAC presentation noted that the detention population was reduced by 27% (from 202 to 148) as a result of this effort. The reduction moved the level of detention utilization back to the level that existed before the increase in the age of juvenile jurisdiction. Data from March 28th through April 30th shows that the detention population during this time period was virtually identical to the detention population during that time period in 2019—prior to raise the age.

This trend is interesting for at least two reasons. First, [G.S. 7B-1906\(d\)](#) requires that at hearings for continued custody “[t]he State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that restraints on the juvenile's liberty are necessary and that no less intrusive alternative will suffice.” Electronic monitoring was commonly used as a less intrusive alternative prior to the pandemic. The purposeful push to move more juveniles out of detention and onto electronic monitoring once the pandemic hit raises the question of why these juveniles were detained if a less intrusive alternative was sufficient?

The second reason why the data peaked my interest was that juvenile detention is very expensive. The costs are split between counties and the State. [G.S. 143B-820](#). The state share equates to \$122 per child, per day, as detailed in the JJAC presentation. An additional \$6.7 million was added to the 2020 state budget to support new detention costs resulting from the increase in the age of juvenile jurisdiction. This cost reflects implementation of raise the age for only part of the year, as the new law applies to offenses committed on or after December 1, 2019. [S.L. 2017-57, §16D.4.\(tt\)](#). DPS projects an additional need of \$6.7 million in fiscal year 2021 to cover a full year of detention costs related to raise the age.

As noted earlier, expanded use of electronic monitoring for juveniles in place of secure detention basically eliminated the increase that was expected to appear in detention daily population as a result of raise the age. This raises the question of whether a more proactive use of electronic

monitoring after the pandemic might reduce the state and local costs for juvenile detention that are expected as a result of raise the age? There are many factors at play in this calculation, including that older juveniles are subject to mandatory transfer at much higher rates than younger youth. According to the JJAC presentation, youth who are transferred and prosecuted in the criminal courts serve an average of 250 days in juvenile detention while you who remain under juvenile jurisdiction serve on average only 21 days in juvenile detention. This length of stay reality may continue to drive additional detention costs even if the current prevalence of electronic monitoring continues. What is clear is that any increased use of electronic monitoring will reduce juvenile detention costs that would otherwise occur.

Release from Youth Development Centers

Commitment to a Youth Development Center (YDC) is the most restrictive disposition available following an adjudication of delinquency. [G.S. 7B-2508](#). For most juveniles, commitment to a YDC is for a minimum of six months and a maximum period of time dependent on their age at time of offense, the offense type, and the maximum term of imprisonment for an adult for the same offense. [G.S. 7B-2513](#). The determination of readiness for and the plan for release is the responsibility of the Division of Adult Correction and Juvenile Justice, which operates the YDC system. [G.S. 7B-2514](#).

According to the JJAC presentation, steps were taken at the outset of the pandemic to reduce the population of youth at the YDC. This resulted in the release of 33 youth. Deputy Secretary Lassiter noted in his presentation that many of these youth were able to move to community-based programs that provide a structured step-down from the YDC setting. It seems that the public health need to reduce the number of juveniles housed in the YDC setting may have accelerated efforts to return juveniles to a community-based setting. Perhaps this sense of urgency to reduce unnecessary time in the YDC setting and to expand use of step-down alternatives provides a promising roadmap beyond the public health crisis.

School-Based Offenses

The JJAC presentation also provided data on complaints based on school-based offenses. These results are obviously not entirely replicable once schools begin to meet again. Absent a couple of offenses that occurred on closed school property in April, there were zero school-based offense complaints filed between March 17th and May 8th. At the same time, there was a reduction in the proportion of minor offense complaints filed in the juvenile justice system. According to the JJAC presentation, 69% of complaints received in February were minor offenses, 26% were serious offenses, and 5% were violent offenses. For more information on what qualifies as a minor, serious, or violent offense, see [G.S. 7B-2508\(a\)](#). In March only 60% of complaints were for minor offenses; only 58% of complaints were for minor offenses in April.

This data raised an additional question for me. Is the reduced proportion of complaints for minor

offenses related to the elimination of school-based offense complaints? According to the [School Justice Partnership fact sheet](#), 93% of school-based referrals to the juvenile justice system in the 2018-2019 school year were for misdemeanors and status offenses. As shown in the JJAC presentation, the flow of complaints on Class A – Class G felonies remained as expected in the juvenile justice system during March and April. However, only about 60% of the Class H and Class I felonies and misdemeanor complaints that were projected to be received in March and April materialized. The elimination of school-based offense complaints during the pandemic school closure may offer a window into how the business of the juvenile justice system might change as school justice partnership agreements become more common across North Carolina and the flow of minor school incidents to the juvenile justice system subsides.

Putting it all Together

COVID-19 forced many of us to quickly reimagine our work. I know I have learned a lot, in short order, about how to teach courses over zoom. I never would have decided to make that shift on my own. However, I do now see how a capacity for me to teach through remote technology might well serve juvenile justice system stakeholders even once I can again teach in person. I wonder if some of the pandemic-induced changes in the juvenile justice system might be much the same. Perhaps there are more juveniles who can be safely released from detention on electronic monitoring. Perhaps lengths of stay at the YDC can be reduced for many youth through the use of step-down programs. And perhaps a stoppage of the flow of minor school-based offenses into the juvenile justice system could lead to a juvenile justice system reserved for working with young people who truly pose a risk to public safety. I appreciate Deputy Secretary Lassiter's willingness to share this data so publicly. Perhaps it gives us all some food for thought about what used to be our status quo.