

GARDEN STATE CLE LESSON PLAN

A 1.5 credit course

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LESSON PLAN AND EVALUATION**

INTRODUCTION TO THE NJ JUVENILE SYSTEM SYSTEM

With

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Program description

Come explore the mysteries of the New Jersey Juvenile Justice system with this 1.5 credit CLE. Your clients and their parents will thank you.

I. Introduction

- **Career prosecutor – 90%**
- **Many trials to verdict, grand jury, teacher to law enforcement personnel**
- **Most challenging part of career is being part of juvenile unit at prosecutor's office**
- **3 years director of juvenile prosecution unit**
- **Smaller amount of cases now as opposed to 15 years ago – not sure reason (less crime, economic)**
- **More difficult to prosecute juveniles**
- **No longer juvenile detention facility in county**
- **When budgets get strained, police forced on daily basis who to go after – juveniles v. gang members v. violent criminals – must pick the most evil**
- **Sheer number of cases to prosecutors at a given time (used to be 40-50 cases for 1 prosecutor in 1 day) caused prosecutors in juvenile unit to be in office for long hours**
- **Philosophical difference in court systems**
- **Prosecutors do individual justice in individual cases**
- **Public policy is retribution and deterrence and not rehabilitation – not present in juvenile justice system in NJ**
- **Juvenile system is different from adult system – in adult system prosecutors are there to convict; in juvenile – helping the juvenile, thinking of the future, not just throwing in jail, do what you can to prevent future crime**
- **For serious juvenile criminal – not going to stay in juvenile system for very long – waived up to superior court through waiver hearings**
- **Waiver created because legislature had to recognize there are juvenile who cannot be reformed and are dangerous**
- **Large population of juveniles who do not get waived up – varying punishment potentials**
- **Crime and damage to victim is the same – no matter the age of the actor – difficult to address this with a victim when there is a juvenile offender**
- **Fundamentally – children are not young adults – their brains are in a formative state**

II. Juvenile Justice System

- *N.J.S.A. 2A:4A-20 through 4A-48* “Code of Juvenile Justice”
 - *NJSA 2A:4A-21*

2. Purposes. This act shall be construed so as to effectuate the following purposes:

a. To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of juveniles coming within the provisions of this act;

b. Consistent with the protection of the public interest, to remove from children committing delinquent acts certain statutory consequences of criminal behavior, and to substitute therefor an adequate program of supervision, care and rehabilitation, and a range of sanctions designed to promote accountability and protect the public;

c. To separate juveniles from the family environment only when necessary for their health, safety or welfare or in the interests of public safety;

d. To secure for each child coming under the jurisdiction of the court such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the State; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents;

e. To insure that children under the jurisdiction of the court are wards of the State, subject to the discipline and entitled to the protection of the State, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them;

f. Consistent with the protection of the public

interest, to insure that any services and sanctions for juveniles provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable children to become responsible and productive members of the community; and

g. To insure protection and a safe environment for those sexually exploited juveniles who are charged with prostitution or who are alleged to be victims of human trafficking; and to provide these juveniles with the appropriate shelter, care, counseling and crisis intervention services from the time they are taken into custody and for the duration of any legal proceedings.

- **Unlike adversarial system in adult court, in juvenile “what can help this juvenile and what can help the victim recover from what the juvenile did?”**
- **More collaborative process in juvenile court between defense and prosecution**
- **In juvenile court, conferenced all cases**
- **Liaisons in court that have vast knowledge of all available programs**
- **Approach in family court is not adversarial but collaborative – both sides working toward benefit of juvenile and victim and society**
- **Juveniles are capable of committing 10 more crimes – therefore dealing with early can benefit society by avoiding future criminal activity**
- **Juvenile programs provide benefit to society**
- **No right to trial by jury – judges sit as finders of fact and finders of the law**
- **Trials are not that common – oftentimes sentencing after trial would be the same as at the end of a plea**
- **Juveniles do not have a constitutional right to a trial by jury in NJ or right to indictment**

III. Programs and options available

- **Probation in one form or another is generalized solution**
- **Most of the time putting someone into jail will certainly have an effect on that person – either becoming a victim or becoming a better criminal**
- **Probation is preferred choice**
- ***N.J.S.A. 2A:4A-60***
- **Suspended proceeding or conditional discharge – may or may not require a guilty plea**
- **Probation requires trial, conviction, or plea – then conditions**
- **Suspended dispositions – universally used for minor offenses (i.e. stealing a car/joyriding) – allows juvenile to clean up his/her act and after a year the slate is wiped clean – nothing formal in place to monitor, just a fact that if nothing comes up in the year then that is sufficient**
- **Station house adjustment – police given discretion, statutory basis for doing this, “curbside adjustment”, police comes up to bunch of kids who are doing something minor (i.e. underage smoking, or underage possession of alcohol), cops may know kids and whether the kids are trouble or parents who are trouble, bringing to station house is intended to scare juvenile, if does not scare kid then the police will know that there is something wrong with the kid – need to watch out for him/her, designed to get to the intelligent kid that decides he does not want to be involved with police**
- **Probation – conviction with variety of conditions – continuing education is major concern for the court (on plea sheets), or get a job, restitution (only from juvenile not from parents)**
- **Mandatory minor penalties**
- **Probation with giving juvenile an option to return to court to prove met all probationary requirements and then shifting to a conditional discharge – taking conviction/adjudication away – this does not exist in adult court**

IV. Juveniles in jail

- **Mercer county got rid of juvenile detention center – now shares with Middlesex County**
- **Juveniles have no constitutional right to bail**
- **Incarcerated because threat to self or others or flight risk**

- **Whether someone initially detained is up to the judge – presumed not going to be incarcerated unless falls within several factors – nature of offense and juvenile**
- **If more facilities to hold juveniles, then more likely that non-violent juvenile offenders would be detained**
- **Within 24 hours of arrest/detention the juvenile is before a judge to determine if detention will continue**
- **Initial hearing – next day by statute; prosecutor appears; no defense attorney at that time – maybe public defender present on other cases will stand in**
- **Initial detention hearing – review charges and basis of charges (police report), police required to write reports within 24 hour period, defense can compel a hearing for police officer to come in, produce sufficient paperwork to advise client on what officer would say, public defender not usually involved at this early point in the case**
- **Continued detention – danger to community, pending files, no family/support system**
- **Judge can send juvenile home or house arrest (no allowed to leave the house without religious or medical or attorney visits) if does not continue detention**
- **Detention hearing supposed to be within 24 hours after arrest – usually waived**
- **Any change in circumstance allows for a new hearing regarding detention**
- **Only serious offenders remain in custody**
- **After time passes to investigate the incident then decision is made that offense was not as serious as initially believed – then likely to release juvenile from detention**
- **Juvenile who is on track for waiver will not be released from detention**
- **Potentially waived or waivable does not mean that juvenile will be waived**
- **Whether a juvenile is susceptible to rehabilitation is an issue**
- **Juvenile who is not waived but remains in detention – 1-4 years of detention, homicide has distinct punishment – penalties are much lower than adult offenders for same offense – important to show that juvenile is not future offender**
- **Rehabilitation through detention? Is this even possible?**

- **Some juveniles are better off in detention because home life is so bad that detention will provide a place to sleep and regular meals**
- **Informal case – prosecutors meet with parents and juvenile, no defense attorney**

V. Advice to defense bar

- **Must know who you are dealing with – difference in prosecutors and officers**
- **May consider personal phone call to prosecutor to discuss case in advance**
- **Defense attorney can set up programs, counseling, etc. – paid for restitution to victim, letter of apology written**
- **Attorney may have information about client that prosecutor does not have – present prosecutor with as full information as possible**
- **If prosecutor does not want to collaborate to come to a resolution – then don't give up – go before a judge**
- **Understand programs available and needs of client**
- **Take affirmative role – don't go in and “wing it”**
- **If you don't know – call the prosecutor – learn and become a stronger advocate for your client**
- **If there are mitigating circumstances, then present those to the prosecutor when negotiating a resolution – don't save it for trial**
- **Juvenile welfare is paramount goal of the system**
- **May become an adversarial role with parents because they are the reason for the juvenile's actions/behavior**
- **Must understand who your client is – parents may be an attorney's worst enemy**
- **Juveniles may not admit to offenses when parents are present**
- **This is not the typical criminal case – goals of legislature are different – save children vs. punishing individuals who violate the law**
- **Rely upon experienced individuals in juvenile court system**
- **Client will depend on you more than family realizes**
- **Leave adversarial part to adult court**