

POLICE IN SCHOOLS

THE SCHOOL-TO-PRISON PIPELINE

THE COURT REFERRAL PROCESS

- Incident occurs at school
- **Alleged victim decides whether he or she wants to press charges**
- School police/School security/Local Police decide whether to send to magistrate or juvenile court
- **For juvenile court, probation receives referral**
- Probation decides whether to bring the case into court or adjust the case informally
- **Probation sets intake meeting with child and parent/guardian**

TO ARREST OR NOT TO ARREST?

- Police agency makes decision about whether to arrest child on the scene
- If they decide to arrest, juvenile probation makes the decision about whether to admit the child into juvenile detention pending further proceedings
- If detained, must have hearing within 72 hours before a Hearing Officer
- If Hearing Officer continues to detain the child, then child must see judge downtown within 10 days

OUT-OF-COURT DIVERSION

Informal Adjustment/Extended Service Contract

- Child is not required to admit guilt
- Parent/guardian must be available for conference with PO (barrier for dependent children)
- Child must be willing to complete certain conditions related to charges (e.g., a child alleged to have possessed drugs would agree to outpatient drug treatment; a child alleged to have committed a theft would agree to restitution)
- Upon completion of conditions, case is closed
- Record expungement after six months with no further incidents
- Child never reports to court or a judge
- Only internal guidelines about which kids get this program

IN-COURT DIVERSION PROGRAMS

Continue to Observe/Observation Period

- Child is not required to admit guilt
- Minimal conditions set (e.g., no contact order, restitution, etc.)
- Case is postponed for 3-6 months
- If conditions are fulfilled, case is withdrawn by prosecutor
- Record expungement after six months with no further incidents
- Prosecutor decides who gets this opportunity

IN-COURT DIVERSION PROGRAMS

Consent Decree

- Child must almost always admit guilt on some of the charges
- Period of supervision that cannot exceed 1 year
- Formally supervised by probation officer
- Upon successful completion, guilty plea is erased and charges are withdrawn by prosecutor
- Record expungement six months after case is over if no further incidents
- If revoked, then guilty plea stands and go straight to disposition (sentencing)
- Prosecutor decides who is offered a consent decree

NON-DIVERSION TRACK

Case Outcomes

- Trial
- Admission (guilty plea)

Disposition Options (sentencing)

- Formal Probation
- Out-of-Home Placement

COMMON SCHOOL OFFENSES (THE CRIMINALIZATION OF ADOLESCENCE)

DISORDERLY CONDUCT – 18 Pa. CS 5503

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, he:

- (1) engages in fighting or threatening, or in violent or tumultuous behavior;
- (2) makes unreasonable noise;
- (3) uses obscene language or makes an obscene gesture; or
- (4) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor

Can be Summary or M3

COMMON SCHOOL OFFENSES (THE CRIMINALIZATION OF ADOLESCENCE)

SIMPLE ASSAULT 18 Pa CS 2701

A person is guilty of simple assault if he:

- (1) attempts to cause or intentionally, knowingly, or recklessly causes bodily injury to another;
- (2) negligently causes bodily injury to another with a deadly weapon;
- (3) attempts by physical menace to put another in imminent fear of serious bodily injury; ...

Generally, an M2 but if there is a mutual fight, then M3

COMMON SCHOOL OFFENSES (THE CRIMINALIZATION OF ADOLESCENCE)

AGGRAVATED ASSAULT 18 Pa CS 2702(a)(5) + (a)(6)

A person is guilty of aggravated assault if he:

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member or other employee, including a student employee, of any [school] while acting in the scope of his or her employment or because of his or her employment relationship to the school

(6) attempts by physical menace to put any of the...persons enumerated in subsection (c), while in the performance of duty, in fear of imminent serious bodily injury (includes school employees)

Second-degree felony

AGGRAVATED ASSAULT?

- A fight breaks out in the hallway between two or more students. Teacher intervenes attempting to break up the fight. When teacher intervenes, he or she is hit either by a student who mistakes him or her for a person involved in the fight or inadvertently hits the teacher before the fight can be stopped
- A teacher is breaking up fight between students. A sibling of one of the students involved in the fight sees the teacher inappropriately grabbing/detaining the student in the fight. The sibling tries to push or pry the teacher's grip from the student.
- A child with a disability is having a meltdown in a classroom. The classroom is cleared of other students. The subject student's in-school crisis team (teachers & administrators) enter the room to try and calm the student. The student picks up a chair and throws it in the opposite direction from where a teacher is standing and screams, "Leave me the fuck alone!"

SPECIAL EDUCATION STUDENTS & DISCIPLINE

- There are special protections for children who have IEP's and 504 plans
- Kids who SHOULD have been identified as special education can sometimes be protected
- No exclusion from school for more than ten consecutive days
- Manifestation Determination Review required

MANIFESTATION DETERMINATION REVIEWS

- If a child is removed for more than 10 days (LTS or expulsion), the school must determine whether the child's behavior was a manifestation of his or her disability.
- If that finding is made, then the disciplinary process must end and the behavior must be managed through the IEP process
- MDR must be done within 10 days of the removal
- MDR must be done by the IEP team

MANIFESTATION DETERMINATION REVIEWS

❖ Behavior must be **caused by** or had a **direct and substantial relationship** to the child's disability

and/or

❖ Behavior was a **direct result** of the school's failure to implement the IEP

MANIFESTATION DETERMINATION REVIEWS

EXCEPTIONS TO MDR REQUIREMENT:

A student may be immediately removed to an interim alternative education placement for up to 45 school days if:

- ❖ Possession of weapon
- ❖ Possession/Use/Sale of drugs
- ❖ Infliction of “serious bodily injury” on another person at school or on school premises

CHILDREN WITH DISABILITIES

Child with disability has a school-based incident. School determines that the incident is a manifestation of the child's disability so the child is not removed from school. The child's IEP is updated and revised.

30 days later, parents receive a notification for court in the mail based on the same incident for which the school just determined that the child's disability was central to her actions.

PA Law essentially provides no substantive defenses for behaviors that are the result of a child's behavioral or mental health issue.

KIDS AT THE MAGISTRATE

- A child can be issued a citation for a summary offense to appear at a local magistrate
- Summary offenses are excluded from the Juvenile Act; not considered delinquency offenses
- Although juvenile matters on magistrate dockets are hidden from the public view, their matters are not handled in a substantively different way
- Magistrates have the power to fine or order community service for kids
- If a child fails to pay, then magistrates **MUST** send the matter to juvenile court for contempt (failure to pay) proceedings
- Once the matter is sent to juvenile court for contempt (failure to pay) it is handled in the normal juvenile process