

**House Children & Youth Committee  
Testimony of:  
Robert Tomassini, Executive Director  
Juvenile Court Judges' Commission  
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Good morning. My name is Robert Tomassini, and I am the Executive Director of the Juvenile Court Judges' Commission, otherwise known as JCJC. The JCJC was statutorily created in 1959 and is comprised of nine judges who are nominated by the Chief Justice and appointed by the Governor. Its mandated responsibilities include, but are not limited to, the establishment of standards regarding administrative practices and judicial procedures in our Pennsylvania juvenile courts, advising courts regarding the proper care of delinquent and dependent children, administering annual grants to improve county juvenile probation services, collecting and analyzing data, and making recommendations concerning juvenile justice-related evidence-based practices.

I have been asked to talk about the secure detention crisis facing our juvenile justice systems. To do so, a bit of background information is important to provide context to the current situation.

Pennsylvania has always enjoyed a reputation as a progressive state regarding juvenile justice. In 1995, Pennsylvania became the first of many states to incorporate Balanced and Restorative Justice (BARJ) as the statutorily mandated mission of their juvenile justice system. BARJ requires the juvenile justice system to equally address community protection, victim restoration, and competency development when working with youth referred to the juvenile justice system.

- Community protection refers to the fundamental right that all Pennsylvania citizens have to both be and feel safe from crime.
- Victim restoration emphasizes that crime can forever change its victims, and that victims have the right to be restored to their pre-crime status to the greatest extent possible through offender accountability.
- Youth redemption embodies the belief that most juvenile offenders are capable of change and have strengths upon which treatment services can build through competency development.

Secure detention falls within the community protection domain of BARJ. The Juvenile Act and Pennsylvania Rules of Juvenile Court Procedure authorize the secure detention of juveniles for brief periods of time and for very limited purposes, while the JCJC's *Standards Governing the Use of Secure Detention Under the Juvenile Act* provide even further due process protections and best practice guidance.

The secure detention crisis we are currently experiencing looks very different in different parts of the state. In some counties, the juvenile probation department has adequate access to detention beds. In the majority of counties, however, secure detention beds are not guaranteed or regularly available when needed. And while attention has been given to overcrowding of detention centers, that situation is unique and only applicable to Philadelphia for reasons I will explain.

To understand the current state of secure detention, it should be noted between 2006 and today over 15 detention centers have ceased operations. This reduction can be attributed to several factors:

- Efforts made by our juvenile justice system over the past decade to detain only those youth who are a threat to reoffend or threat to abscond and using a validated detention risk assessment instrument to assist with detention decisions.
- Like virtually all industries, secure detention facilities were impacted by the COVID-19 pandemic. Staffing shortages and the costs associated with adapting facilities to be compliant with Centers for Disease Control (CDC) restrictions forced already struggling detention providers to reduce their staffed capacity or close completely.

Currently, there are 13 detention centers across the state. Additionally, there are two facilities in Ohio being utilized by Pennsylvania counties.

Of these 13 detention centers, 5 only accept juveniles from the county where the center is located, with few exceptions. An additional facility is owned by 5 neighboring counties who have priority of available beds. Therefore, in 10 counties the crisis is not as significant as other parts of the state, however, many of these facilities are not operating at their full capacity due to staffing issues.

The remaining 57 counties, including Allegheny County, must vie for beds at just 7 facilities. These facilities have a total operational capacity of 199 beds but only 114 of these beds are currently available due primarily to staffing issues. As a result, most, if not all, of these beds are usually occupied, making it difficult for these counties to secure a bed when needed.

Philadelphia's situation is different than what is happening in most counties, as Philadelphia has its own facility with a licensed capacity of 184. However, the daily population has regularly exceeded the licensed capacity. There are several factors impacting Philadelphia's situation, as well as other counties, but Philadelphia's situation is exacerbated due to their large numbers. These factors include:

#### Increase in Violent Offenses

In 2019 (pre-pandemic) 1,654 written allegations filed with juvenile probation departments statewide included a charge involving a weapon. Of these allegations, 630 involved a firearm; 473 involved a knife, and 551 involved another weapon type.

By comparison, in 2022 2,305 written allegations filed with juvenile probation departments included a charge involving a weapon. Of these allegations, 1,133 involved a firearm; 512 involved a knife, and 660 involved another weapon type.

In Philadelphia alone, 216 written allegations were filed in 2019 that involved a weapon. Of these allegations, 100 involved a firearm; 29 involved a knife; and 87 involved another weapon type.

In 2022, 653 allegations were filed involving a weapon. Of these allegations, 448 involved a firearm; 31 involved a knife; and 174 involved another weapon type.

### Wait List for Residential Services

While secure detention is intended to be a short-term placement for limited purposes, longer-term residential placements are needed to serve youth determined to be a threat to their communities and to provide therapeutic services addressing the specific needs identified for each youth. Like the closing of numerous secure detention facilities, many residential placements have also closed over the past years. A lack of beds in these facilities as well as contracts between counties, such as Philadelphia, and private secured facilities is further impacting the issue. As of April 17, 2023, 154 youth were on a wait list awaiting a bed at one of the five state-operated residential facilities. Additionally, the median amount of time on the waitlist is approximately 2 months, with many of these youth being housed in a detention facility awaiting a residential placement bed to open. This increased length of stay in detention has negatively impacted the availability of beds. The additional time youths are on the wait list is in part created by staffing issues similar to those faced by the detention facilities. Likewise, the system has seen increases in the length of time to which courts are committing youths to secure residential facilities.

### Juvenile Justice Reform Act (JJRA)

In December of 2018, the federal Juvenile Justice Reform Act (JJRA) was signed into law, reauthorizing and substantially amending the Juvenile Justice and Delinquency Prevention Act (JJDPA) originally enacted in 1974. One of the most impactful changes to the JJDPA is the requirement that any youth under the age of 18 who is being processed through adult criminal proceedings may not, except under limited circumstances, be held pretrial in a jail or lockup for adults. Unless found by a court to be in the interest of justice, juveniles who are being charged and tried as adults (1) may not have sight or sound contact with adults and (2) may not be detained in a jail or lockup for adults (except as provided under the jail removal requirement). The determination of whether such detention would be in the interest of justice must (1) be **after a hearing**, (2) **be in writing**, and (3) take into consideration several criteria (e.g., the juvenile's age, physical and mental maturity, present mental state, history of delinquency). In Pennsylvania, this requirement applies to individuals who are either "direct filed" to adult proceedings pursuant to the exclusion provisions of the Juvenile Act (42 Pa.C.S. § 6302), or those who are transferred to adult criminal proceedings pursuant to the Juvenile Act (42 Pa.C.S. § 6355).

This has created an influx of youth historically housed in adult jails now being held in secure juvenile detention facilities. Since December 21, 2021, when this requirement of the JJRA went into effect, at least 71 youth have been held in a Pennsylvania juvenile detention facility awaiting adult criminal proceedings, making those beds unavailable for delinquent youth. And while this number varies daily, it is not uncommon for Philadelphia to house 30+ individuals under the age of 18 on any given day who are awaiting adult criminal court proceedings.

These factors have contributed to the perfect storm:

1. Fewer detention centers, with several only accepting youth from the county where the facility is located.
2. Fewer residential programs, creating longer wait lists and longer stays in detention.
3. The significant increase in violent crimes and especially those offenses involving a firearm.
4. The JJRA requirement to house anyone under the age of 18 charged with an adult offense in a secure detention facility absent an Interest of Justice determination.
5. The ongoing impact of the Covid-19 pandemic including, but not limited to recruitment, retention, and training of appropriate staff.

The JCJC regularly receive calls from juvenile court judges and chief juvenile probation officers looking for guidance and solutions to this problem.

Juvenile court judges have been put in the position of detaining who they consider the “more dangerous” of many dangerous youth. On occasion, judges have had to release a juvenile already determined appropriate for detention, to secure a bed for a juvenile considered more dangerous. Additionally, we hear stories regularly where juveniles recommended for detention are unable to be detained due to the lack of an available bed. These juveniles are released on electronic monitoring or house arrest, only to violate those terms and commit additional offenses.

We have also heard the frustrations voiced by our law enforcement community regarding juveniles charged with serious, violent offenses, only to be released to the community due to a lack of bedspace.

Conversations are occurring regularly with the Department of Human Services, the Pennsylvania Council of Chief Juvenile Probation Officers, the private-provider community, and other system partners, on both short-term and longer-term solutions.

We must find a solution where a detention bed is available whenever required for community protection, while also right-sizing our system for both secure detention and residential services and making community-based services available to address the challenging needs of our youth and families.

Thank you for the opportunity to meet with you today.