

#114

NEW JERSEY
JUVENILE PROSECUTORS' LEADERSHIP NETWORK

August 16, 2021

Honorable Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Re: Comments on the Future of Court Operations
On Behalf of the Juvenile Prosecutors' Leadership Network

Dear Judge Grant:

On behalf of the New Jersey Juvenile Prosecutors' Leadership Network (JPLN) please accept this correspondence as public comment regarding the Notice to the Bar and Public pertaining to the Future of Court Operations as it specifically relates to the Juvenile Delinquency (FJ) Docket.

Throughout the COVID-19 pandemic, juvenile courts throughout this State have demonstrated their ability to proceed in a primarily virtual format. The commitment shown by the parties, in partnership with the Judiciary, has allowed the juvenile docket to continue to function in the timely manner that juvenile justice demands, while still protecting the public by permitting remote proceedings in most circumstances. In fact, JPLN supports the continued use of certain remote proceedings as the Courts transition back to in-person proceedings.

However, as written, the Juvenile Delinquency parameters set forth in the Notice are interspersed with Criminal and Municipal mandates which result in the Courts direction being unclear. As such, JPLN suggests that the subsection be re-written to independently address the juvenile delinquency docket to allow the Court to use the terms associated with that docket and to avoid confusion and argument regarding which events require in-person appearances. Specifically, JPLN draws the Court's attention to the provisions of section 2(b), which read, in pertinent part:

The following matters only may proceed remotely with the consent of all parties, except that the consent of a party will not be required if the party is absent and unreachable:

- (i) Sentencing hearings in Criminal, Family Juvenile Delinquency(FJ), and Municipal matters;
- (ii) Juvenile delinquency adjudications;
- (iii) Evidentiary hearings and bench trials in Criminal matters; . . .

JPLN suggests that these references will create conflict in their application and recommends the following changes:

- (i) Dispositional Hearings in all Juvenile Delinquency matters.

As the Court is aware, juvenile defendants are not sentenced but are disposed in accordance with the provisions of N.J.S.A. 2A:4A-43. “The N.J. Code of Juvenile Justice, N.J.S.A. 2A:4A-20 to -48, authorizes a Family Part judge ‘to enter dispositions that comport with the Code’s rehabilitative goals.’” State in the Interest of C.V., 201 N.J. 281, 295 (2010); State in the Interest of J.L.A., 136 N.J. 370, 376-77 (1994). State in Int. of T.D., 460 N.J.S. 297, 302–03 (Ch. Div. 2019). Using the word “Dispositional Hearings” aligns this notice with the terms and phrases used by the Code of Juvenile Justice and clearly establishes that a party may object to a remote proceeding when the court is imposing a disposition. This distinction is with merit, as the New Jersey Appellate Courts have frequently held that while an adjudication of delinquency is a disposition, not all dispositions are adjudications. See N.J.S.A. 2A:4A-43; State in Interest of V.M., 279 N.J.S. 535, 537 (App.Div.1995); State ex rel. N.L., 345 N.J.S. 25, 31 (App. Div. 2001) (comparing penalties for a deferred disposition with those required at adjudication). Framing subsection (i) in this matter permits all parties to appropriately understand that any dispositional hearing, including those that result in any of the approved dispositions authorized by the Code of Juvenile Justice are subject to the consent of all parties to proceed remotely.

- (ii) Juvenile delinquency adjudications, including plea hearings and bench trials conducted in the Family Division.

JPLN suggests this additional language to avoid conflict, especially in light of section (iii) which only references bench trials in the Criminal Division. Throughout the COVID-19 pandemic this has been an issue in juvenile courts which resulted in confusion and disparate application. Certain counties attempted to conduct remote juvenile bench trials and others did not, each interpreting the same COVID-19 guidance. The Future of Court Operations should clarify the point that juvenile bench trials, where “adjudication” occurs, as well as plea hearings can only be conducted remotely with the consent of the parties.

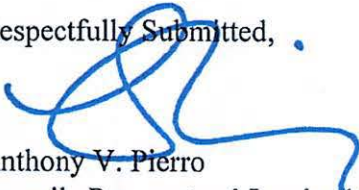
- (iii) All Evidentiary hearings conducted in regard to a juvenile delinquency matter, including waiver proceedings and violation hearings.

As Your Honor is aware, waiver hearings are one of the most fundamental and important hearings which can be conducted by the Family Division. JPLN suggests that these hearings be conducted in-person unless both parties consent to a remote proceeding. In accordance with N.J.S.A. 2A:4A-40, juveniles charged with delinquency are afforded “[a]ll rights guaranteed to criminal defendants by the Constitution of the United States and the Constitution of this State.” For that reason and those set forth in the current iteration of the Notice regarding evidentiary hearings in Criminal matters, all evidentiary hearings conducted in the juvenile delinquency docket should be treated similarly.

CONCLUSION

Thank you for taking the time to review these comments submitted. Members of the JPLN are available to discuss these submitted comments at your convenience. On behalf of the JPLN, I can be reached directly at 732.288.7807.

Respectfully Submitted, .



Anthony V. Pierro
Juvenile Prosecutors' Leadership Network