



IN CHAMBERS OF

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Superior Court
of the State of California
In and For
The County of Placer
Auburn, California

August 18, 2000

Mr. Richard R. Terzian
Chairman, Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Re: Testimony before California's Little Hoover Commission

Dear Mr. Terzian and Members of the Commission:

I am pleased to participate in this very important discussion of youth violence and to share a judicial perspective on the strategies for dealing with delinquent youth in the juvenile justice system.

Two themes have dominated the juvenile justice arena for much of the past decade. Both the courts and the legislature have struggled with how best to respond to the increasing societal demands that teens be held accountable for their behavior. Accountability is most often defined as stiff and swift consequences. On the other hand, there is general acceptance that, for rehabilitation to be successful, an increased level of services must be available at the front end for youth and their families.

These themes are most evident in the recently enacted Prop 21. It is clear that the provisions of Prop 21 seek to increase the consequences for seriously felonious behavior while providing for a more generous treatment of first time offenders than previously permitted. Similarly, in Placer County, we have devised several programs which seek to respond to the need for structure and accountability while providing an increased level of services for the minor and family.

Unquestionably, the courts are faced with complex cases. The line between dependency cases and delinquency cases can be a fine one. It is not uncommon to open a dependency file and be faced with a teen who is completely out of control, habitually truant, struggling with drug addiction, and in dire need of behavior modification. Yet, under traditional handling, the courts are limited in the consequences that can be imposed on the minor. On the other hand, it is not uncommon to have a delinquency case before the court and have a minor desperately in need of mental health services and subjected to parental abuse and neglect. Therein, the ability of the court to impose consequences on the parents is quite limited. Additionally, traditional categorical funding restrictions hamper the court's ability to provide services to the minor and family in the delinquency court. Remarkably, the only distinction between the cases may be the "delinquent " teen was caught for a petty theft. Meanwhile, the court is put in the untenable position of waiting for the dependent teen to commit a crime so that the appropriate restrictions can be imposed.

I have served as a judicial officer handling the dependency and delinquency calendars in Placer County since 1992. In 1998, I became the presiding judge of the Juvenile and Family Law Court. During the past eight years, I have benefited from sharing knowledge and experiences with fellow judicial officers. Many of the programs that have proved successful in Placer County are the result of the combined experiences and successes in counties throughout the state. The on-the-job-experience of working with thousands of teens going through "the system" has been invaluable and tremendously rewarding. Finally, professional advice and expertise on topics as varied as child psychology, drug addiction, and violence have been extremely helpful in understanding the young people who appear before me. However, as I think back over the many classes, lectures and seminars that have influenced my thoughts on effective treatment options, one of the most instructive was a parenting class I took many years ago. The concepts were simple:

- Communicate to the child age-appropriate expectations
- Devise logical consequences for misbehavior,
- Impose consequences swiftly and calmly
- Be consistent

In Placer County we have our share of successes and failures. These simple concepts, however, unequivocally form the backbone of three of the successful programs: Peer Court, Placer County Juvenile Drug Court, and the Tier Three program.

PEER COURT

In 1991, Placer County was faced with increasing numbers of low-level incidents that included petty theft, shoplifting, possession of drugs and alcohol, and vandalism. Through the leadership of Judge J. Richard Couzens, the then presiding judge of the juvenile court, Placer County adapted a teen court program initially piloted in Humboldt County. The program focuses on low-level first time offenders. Each minor must be willing to admit guilt, waive confidentiality and submit to consequences devised by a jury of teen peers. Consequences may include educational programs, license suspension, jail tours, victim-offender mediation and an essay. The consequences must include community service and service thereafter as a juror on two Peer Court trials. The types of consequences reflect the core beliefs of the program – teens must be accountable not only to the victim but to themselves and their community; teens must be encouraged to be part of their community, not ostracized from society; and, behavior modification must be a team effort. The program is completely teen driven – the bailiff, clerk, attorney, and jury are all teens.

The extremely low recidivism numbers validate the program as an unqualified success. The teen defendants and their parents consistently report satisfaction with the results. Participation from local attorneys, as well as the community at large, has been overwhelming. Particularly gratifying is the number of teens who grudgingly enter as defendants and remain for years thereafter as prosecutors and defense attorneys. Indeed, several of the teens, who entered as defendants with significant criminal and family difficulties, have received full college scholarships as a direct result of their involvement in Peer Court.

In developing Peer Court, Judge Couzens insisted the program not merely be reactive but take a preemptive strike against future offenders. Thus, an educational component was designed as a critical part of the Peer Court program. A secondary school curriculum was written and piloted at Placer High School in 1992. Since then, the program has been incorporated into the high school curriculum of every Placer County secondary school. The importance of giving teens accurate and forthright information on their rights and responsibilities is the intent of the curriculum piece. Lessons are based on the Juvenile Justice Handbook, which summarizes the laws that most directly impact on teens and explains the consequences for violation. Over the course of the school year, each student hears from a regular schedule of speakers,

including representatives from juvenile court, public defender, district attorney, law enforcement probation and CYA, and Alternative Dispute Resolution. Allowing students to ask the people in-the-know about drugs, gangs, crime, and school attendance is critical in assisting teens to make good decisions about their behavior.

PLACER COUNTY JUVENILE DRUG COURT:

In the course of handling the juvenile delinquency calendar, it became painfully clear to me that drug abuse was an exceedingly common factor in the lives of many of the minors I saw in court. Not only were many teens charged with drug-related offenses, but also drugs were often behind the activities that brought them to the attention of law enforcement.

One evening in 1996, as I plowed through my usual stack of juvenile sentencing reports, I decided to separate the reports into two piles. One large pile consisted of minors for whom drugs played a role in their delinquency. While a second much shorter pile consisted of those for whom I found no obvious drug issues. The visual of seeing the disparity in the two piles was a classic defining moment. Shortly thereafter, I brought together key officials to discuss the need for a different way of doing business. This discussion led to the formation of a Juvenile Drug Court Planning Team. The team included representatives from Probation, District Attorney, Public Defender, private defense attorneys, Sierra Family Services, and the Placer County Children's System of Care. The planning team met throughout the year and initiated a small pilot program in early 1997.

Early on, we resolved to deal with three significant issues. 1) Ongoing drug treatment services for low-income families were virtually non-existent; 2) Lack of parent participation in the juvenile court was unacceptable. In traditional handling, the minor's parents often sat in the back of the court as virtual spectators rather than as team players in their child's rehabilitation; and, 3) Delay in imposing consequences for misbehavior fostered an unacceptable lack of accountability. One of the difficulties in dealing with teen drug abuse is their perception that there is no problem. They have yet to experience the life consequences of drug abuse; in other words, they still have a place to live and food to eat. Thus, the teens can quite easily convince themselves that they are successfully managing the situation. Obviously, this hinders the minors' acceptance of treatment. The team recognized that for the drug court to be successful, the minors must be quickly disabused of this belief.

Significantly, the team created a post-sentencing drug court. In other words, these were minors who admitted their offenses or were found guilty and were on juvenile probation. For the most part, the drug court focused on teens who were not successful in a variety of less structured programs. It was critical that the minor be subject to incarceration. Informal handling or other pre-wardship programs unduly hampered the court's ability to impose appropriate consequences, and minors on such programs were excluded.

Despite a lack of newly-allocated funding, the program diverted existing sources of funds, in-kind resources and client fees to begin serving a small group of adolescents who came to court every other week and participated in a special adolescent treatment group at Sierra Family Services in Roseville. The treatment provider made a commitment to work closely with the court in devising the treatment program and locating funding. Thereafter, we applied for and received several grants which permitted the program to expand substantially.

Each minor was court-ordered to treatment two times per week and was randomly drug tested a minimum of two times per week. In each case, the court imposed a stayed 90-day sentence. Thereafter, the court imposed increasing amounts of incarceration for testing positive and failing to attend treatment. Thus, the minor was quickly confronted with the reality that he was not managing as well as he thought. Each minor and his or her parent(s) signed a contract that clearly spelled out the expectations and consequences for violations. In the event of violation, the consequences were consistently and swiftly imposed. Indeed, consistency was one of the most critical elements. A unique feature of drug court is that all minors are present throughout the entire proceeding. Thus, each minor is very aware of the consequences being imposed on the other participants. It was apparent they all closely watched the court for signs of any deviation from the expected consequences – the teens did not hesitate to inform the court they expected full conformance to the rules of drug court by all, including the judge.

In addition to consequences, the drug court team assisted the minor and his family in locating appropriate treatment, family counseling and job training. The results to date have been most gratifying. The majority of the teens successfully graduate and remain drug free during the after-care period. Unbelievably, despite the strict rules of the program, the teens routinely report feeling supported by the program. The physical changes in the minors

are striking. The sense of pride and accomplishment is palpable in court. The parent reaction is equally profound. Often the loudest supporters are the parents who had given up all hope and just a few months prior saw out-of-home placement as the only solution.

TIER III PROGRAM:

It has been my experience, shared by many judicial officers, that the most serious crimes, resulting in a transfer to adult court, are often committed by teens with no previous juvenile court handling. This phenomenon would suggest that there are many teens who inexplicably go from zero to a hundred with no warning signs. A closer examination, however, often reveals a history going back to age eleven for out of control and/or truant behavior. Basically, these are young people who manage to fly under the juvenile justice radar screen. No doubt, these teens are repeatedly threatened with repercussions for their bad behavior. Sadly, however, the consequences are rarely imposed. Unquestionably, we must identify these teens earlier in the process and provide increased services and accountability to prevent a needless escalation of criminal behavior.

With this in mind, Placer County enacted a program three years ago, entitled the Tier-111 Program. Simply, the program seeks to identify from among the low level "first time offenders " those teens demonstrating a pattern of out of control or habitually truant behavior. Rather than referring to traditional non-adjudicative programs such as informal handling or deferred entry of judgment, these teens are referred to court for formal handling. They are then offered an opportunity to enter into a nine-month program of intensive supervision and treatment. The minor is presented with a choice – standard probation or enter into a contract that permits the assigned probation officer the ability to immediately impose up to five days in detention for violations of the contract. Thus, rather than wait weeks for a violation of probation hearing, the minor suffers immediate consequences for misbehavior. At the conclusion of the program, the charges are dismissed. Thus, the minor is not denied the benefit of a dismissal typically available in informal handling; however, during the pendency of the program, Probation has the ability to closely monitor the minor's behavior, assess his service needs, and impose immediate consequences.

In sum, several factors are critical to the successful handling of delinquent youth:

1. The Juvenile Court must have the discretion to impose a broad range of dispositional options that are appropriate to the specific offender before the court.
2. Expectations must be clearly and succinctly presented to the minors.
3. Consequences must be imposed consistently and swiftly.
4. A broad range of treatment options must be available in a timely and cost effective manner.
5. No one agency - whether it's the courts, the police, welfare, probation, mental health, or education has the expertise or the money to handle these cases in isolation. The complex needs of the minors require collaborative efforts.
6. Mentors and other caring adults must provide teens with a supportive environment in which they are encouraged to give back to their community by virtue of consequences that are both restorative and rehabilitative.

Respectfully yours,

Frances Kearney
Presiding Judge of the Juvenile and Family Court

Attachments:
Placer County Peer Court
Placer County Juvenile Drug Court
Tier III Program