



NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Contributing Author: Rachel Larsen, Senior Attorney, National District Attorneys Association (VA)

The Importance of Well-Trained and Experienced Prosecutors in Juvenile Court

A juvenile court prosecutor's job is composed of balancing different interests that make the ability to take ethical action born of experience and training the first and most important qualification for the job. Juvenile court prosecutors must balance the conflict between an obligation to vigorously represent the state's interests in the safety of the community and justice for victims against the mandate, codified in laws across the country, that juvenile court prosecutors should also exercise great discretion to provide for the best interests of court-involved youth. As we better understand the development of the adolescent brain and the potential harm that juvenile justice involvement may have for low-level offenses, juvenile court prosecutor decisions must be all the more thought out and well-informed.

However, conflict of purpose is not unique to the juvenile prosecutor. It is in the nature of the wide discretion given to prosecutors along with the overarching objective to seek justice over conviction and to protect the innocent as well as convict the guilty¹. In one's capacity as an adult court prosecutor, this often means dismissing a case if the charges cannot be proven beyond a reasonable doubt or breaking down serious charges into less serious charges in an effort to better reflect true culpability.

But, while an adult court prosecutor's tools are usually clearly defined, a juvenile court prosecutor's responsibility often extend way beyond the courtroom. In fact, juvenile court prosecutors can play a critical role in prevention efforts through collaboration with community stakeholders such as schools. Take, for example, how much change a juvenile court prosecutor can make and thereby further the best interests of juveniles by paying attention to the educational system in their jurisdictions.

Over the past several years, there have been some innovative programs and policies around reducing the number of school referrals to juvenile court, including the School Justice Partnership (SJP). The SJP is essentially an agreement between the school system and the prosecutor's office as to when school referrals to juvenile court are appropriate. The ownership needed to spearhead such a program begins when an individual or team of ADAs handle juvenile court and can be a liaison with the larger community.

With prosecutor buy-in to an SJP, the dynamic between courts and schools can be changed, and unnecessary school referrals to the juvenile justice program can be reduced. Ultimately, the universal goal to keep school discipline cases out of juvenile court can be accomplished when a prosecutor with enough experience and ownership of the juvenile court docket reaches across the aisle to stakeholders in the education system.

A SJP is a relatively easy way to act in the best interests of juveniles and the community when dealing with minor offenses. But, what happens when the offenses aren't so minor? How do prosecutors protect the community and rehabilitate juveniles who commit serious offenses?

¹ Code of Professional Responsibility, EC 7- 103.

Approximately 36% of all sexual offenses against children are committed by juveniles.² Trying these difficult cases often requires expert testimony and specialized rules of evidence around child witnesses. To effectively try these cases, juvenile court prosecutors must develop a team of child abuse experts, and they must have lots of specialized training. The importance of having well-trained experienced prosecutors evaluate and handle these cases is especially true because, of all sex offenders, juveniles have the greatest possibility of being rehabilitated. Research has shown that dispositions which include sex offender-specific treatment are very effective. A study of juvenile sex offenders in 2010 showed a 10-year recidivism rate of 5% for the treatment group and 18% for the comparison group and a respective 9% and 21% rate with a 20-year follow-up.³ That is a 72% reduction in the 10-year sexual offending recidivism rate. However, current research shows that only 5% of serious juvenile offenders receive an evidence-based treatment.⁴

The importance of these studies is too profound to overstate. Having well-trained and experienced juvenile prosecutors take a child sexual abuse case to adjudication is in the best interest of juveniles whose offending rate might be reduced and is also in the best interest of future victims and community safety. The ethics of the situation are clear despite the balancing of competing interests that prosecutors must usually perform.

So, why is it that if experienced and well-trained juvenile court prosecutors are in a position to make such a large difference, they are so often the newest and most inexperienced prosecutors in the office? Or, that many jurisdictions have adult court prosecutors take turns in juvenile court and don't have a dedicated person or team for juvenile court? Very often, it is because the true value of juvenile court prosecutors remains underappreciated across the country. It is often a dedicated and well-trained juvenile court prosecutor who can make a difference in the trajectory of a young person's life, while also maintaining public safety concerns.

Fulfilling the statutory mission of juvenile court requires a prosecutor to know so many things that adult prosecutors do not need to know. For example, juvenile prosecutors should know what an Individualized Education Plan is and whether the school the juvenile attends is meeting that student's specific educational needs, because fixing what is going wrong might be the difference that allows a juvenile to start succeeding and to stay out of the criminal justice system long term.

Additionally, it is difficult to maintain the correct juvenile court mindset if prosecutors handle just a few juvenile cases a month and their regular work in superior court has them filling out plea agreements and entering a sentence almost exclusively based on felony levels and sentencing charts. Being in juvenile court and carrying out the mission of juvenile court requires a prosecutor to know what the available rehabilitation programs are across all spectrums of offenses and whether the juvenile in front of them qualifies to get into the one that best suits the juvenile's needs.

Each day, prosecutors encounter and deal with people who have done horrible things. Prosecutors don't often get to go back in time and fix the bad schooling and insufficient mental health care that may have led to irreparable damage to a victim. That is, except in juvenile court where there is not only an opportunity to prevent, intervene early and rehabilitate and change lives, but also a statutory mandate to do so. Juvenile court needs a dedicated prosecutor team that values and invests in the training that is

² David Finkelhor, Richard Ormrod, and Mark Chaffin. (2009). "Juveniles Who Commit Sex Offenses Against Minors" *Juvenile Justice Bulletin*.

³ Worling, J.R., Littlejohn, A., & Bookalam, D. (2010). 20-year prospective follow-up study of specialized treatment for adolescents who offended sexually. *Behavioral Sciences and the Law*, 28, 46–57.

⁴ Dopp, A., Borduin, C., Rothman, D., & Letourneau, E. (2016). Evidence-based treatments for youths who engage in illegal sexual behaviors. *Journal of Clinical Child and Adolescent Psychology*. 2017 Sep-Oct;46(5):631-645.

needed for prosecutors to handle the treatment and rehabilitation of juveniles as well as to prosecute juvenile crimes and protect the community safety and the rights of victims.

Recognizing the importance of the role of the juvenile court prosecutor, in 2016 the National District Attorneys Association (NDAA) updated the National Juvenile Justice Standards. A key recommendation is that offices devote specific personnel and resources to fulfill its responsibilities with respect to juvenile delinquency proceedings and that all prosecutors' offices should have an identified juvenile unit or attorney responsible for representing the state in juvenile matters. In addition, NDAA's national standards call for required specialized training for juvenile court prosecutors.

This is not an easy task in budget-strapped jurisdictions. Small offices with limited staff and multicounty rural districts often find it the most difficult to set aside dedicated juvenile court staff. It is important that despite the real struggle many jurisdictions face in affording sufficient staff, juvenile court be prioritized.

And, once a dedicated staff is in place, near constant training is needed to keep up with the science of risk assessment and rehabilitation, special education laws, the ever-changing jurisprudence in child sexual abuse cases, and developing best practices in juvenile court. Some juveniles will continue to commit criminal acts and graduate to the adult system no matter what juvenile court and the juvenile court prosecutor have attempted. But, let it be said that this happened despite our best efforts: that when we had a chance to rehabilitate rather than incarcerate, we heeded a mandate and put our best and most well-trained prosecutors on the job.