

Advancing Community Protection: A White Paper for Pennsylvania



*Commissioned by the Juvenile Justice and Delinquency Prevention
Committee of the Pennsylvania Commission on Crime and Delinquency*

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Advancing Community Protection: A White Paper for Pennsylvania

Pennsylvania’s juvenile justice goals—community protection, offender accountability, and competency development—reflect complementary and reinforcing values for responding to young people who break the law. This White Paper, the 3rd in a series, advances the community protection goal and, like the others, “plants a flag” and takes a position on policy implications and practical applications surrounding the goal. The White Papers have been commissioned and sanctioned by the Juvenile Justice and Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency on the basis of research and the advice and consensus of a statewide, broad-based focus group of juvenile justice practitioners and advocates. The primary audience for this White Paper is law enforcement, courts, and probation, but it is relevant for engaging other partners, systems and communities to support the juvenile justice system in meeting its community protection goal.

This White Paper is based on the belief that Pennsylvania citizens have a right to be and feel safe from crime. It recognizes that, for the most part, young people who commit crimes are not serious, violent or chronic offenders. It furthers a long-standing policy of making every effort to keep young offenders in their communities—or apply the least restrictive alternative to incarceration—so long as the risk they pose to the public’s safety can be managed.

Although this White Paper focuses on discrete aspects of the community protection goal, it is the sum total of activities directed toward achieving Pennsylvania’s three goals that leads to law abiding, productive and connected citizens who have made amends. Indeed, although community protection can be enhanced through incarceration—and reducing recidivism is a necessary element of success—both are incomplete system ideals. A true sense of public safety will not occur until young offenders internalize the message of accountability, address those needs that got them into trouble in the first place, and acquire skills and other positive assets. Local efforts to implement the White Papers and Pennsylvania’s initiatives to improve aftercare supervision and promote better screening for mental illness and mental health services for delinquent youth have converged to help enhance a nationally recognized juvenile justice system.

Community Protection: The Mandate

It's primary. Citizens expect the government to protect them from crime and from known offenders and, as such, community protection is one of the primary responsibilities of government. For law enforcement, it's their primary obligation and mission—to protect and serve. Likewise, for the juvenile justice system, community protection is the one thing that it must do. There is little to no latitude for failure on this goal.

It's the law. The purpose clause of Pennsylvania's Juvenile Act begins with the phrase that captures its intent regarding delinquency, "Consistent with the protection of the public interest..." However, prior to the 1995 special legislative session on crime, the way in which that interest was best served focused primarily on the rehabilitation needs of the young person. The juvenile justice system was "to remove the consequences of criminal behavior, and to substitute therefore a program of supervision, care and rehabilitation."

With the resulting passage of Act 33 in 1995, the legislature maintained the primacy of "protection of the public interest" but added definition to the focus of those programs and expanded the circle of clients whose interests the juvenile justice system serves. Juvenile court judges must consider the interests of crime victims, communities, and offenders in all proceedings in order to protect the public interest. No one party is to benefit at the expense of the other two.

It's one of the juvenile justice system's three goals. In order to protect the public interest, Act 33 defined more comprehensive and interconnected goals for the juvenile justice system—community protection, offender accountability, and competency development—and mandated "balanced attention" to them. Based on balanced and restorative justice principles, the mandate is intended to help young offenders become law-abiding, productive and responsible members of their community. One of Pennsylvania's guiding principles in this regard is that the juvenile justice system is to give balanced consideration to each goal. That means that equal consideration is to be given to each goal at the beginning of its investigation but that as fact-finding and assessment proceed, the weight given to each goal will be balanced so that responses can be individualized.

Controlling Crime and Managing Offenders

The juvenile justice system uses various strategies for controlling crime and managing offenders. Some are reactive aimed at deterring future offending or restricting an offender's liberty, as in incapacitation. Others are proactive aimed at addressing offenders' most pressing needs related to their offending behavior.

General deterrence is a crime control strategy whereby the aim of the justice system's public or visible response toward known offenders is to deter (or prevent) others from future misdeeds. Deterrence may be achieved as a result of system restrictions—real and perceived—on offender liberty. The focus of general deterrence, however, is not on the offender. Rather it is when others in society observe the “punitive” measures imposed on known offenders and decide not to commit crimes as a result. It's the threat of punishment, or fear of the same consequences being meted out, that provides the general deterrent effect.

Incapacitation, on the other hand, is a strategy that is targeted directly at offenders under the court's jurisdiction via the system's imposition of restrictions on an individual offender's liberty. It is hoped that these restrictions, which incapacitate the offender to varying degrees, may be perceived by an offender as “punitive” and thus specifically deter re-offending in order to avoid additional or more severe consequences from the system. Even when an adolescent does not view the system's response as punitive or overly restrictive on its surface, simply being under court supervision can have a specific deterrent effect for that young person.

There is little doubt that community protection can be enhanced through incarceration, in some cases, or the certainty of restrictions on an offender's liberty in most cases, even if the restriction involves community-based supervision. Reactive (or incapacitative) strategies involve the juvenile justice system's obligation to protect the community from juvenile offenders that come to its attention via a wide range of supervision and control options that correspond to an offender's risk in order to preserve order. However, incapacitation cannot be the only strategy for achieving the community protection goal.

In meeting its community protection responsibilities, Pennsylvania has turned away from a purely reactive approach to delinquency, in favor of one that focuses on creating conditions and programs that promote positive development for all young people and prevent delinquency from occurring in the first place. The PCCD/JJDPC has had a long-standing commitment to a community-based, risk-focused approach to preventing delinquency and promoting positive youth development.

Proactive strategies recognize the limits of time and resources available to the court and probation, and involve an obligation to establish good working relationships and active partnerships with law enforcement and with communities to open lines of communication in order to prevent crime and preserve the peace. Schools, community organizations, businesses and youth-serving agencies each play a part in the work of preventing and reducing delinquency and should be supported in improving their abilities and building their capacities to prevent crime.

The focus group developed a definition that captures both the ambitions and limits of community protection through the juvenile justice system and contains both proactive and reactive strategies:

Community Protection is the process of contributing to safe communities—with particular emphasis on known juvenile offenders—through prevention, supervision and control.

The *role* of the juvenile justice system is to respond with timely investigation and processing; a range of diversion, supervision, control and placement options; general deterrence and prevention activities; and partnerships with communities. Particular emphasis is placed on “known” offenders—those youth who have come to the attention of law enforcement—and the subsequent decisions by juvenile courts and probation departments to protect the community from the risk posed by individual offenders and efforts to help them transition from external system controls to internal ones.

Although this definition speaks primarily to the temporary measures the juvenile justice system takes to suppress offending behavior, this White Paper advances the idea that identifying, managing and minimizing the risk offenders pose will lead to the hoped for outcomes of law-abiding young people. Keep in mind that it is the sum total of all activities the juvenile justice system engages in that is intended to help offenders understand how their thinking impacts their behavior, acknowledge the impact of their behavior and acquire new skills and behavioral strategies for prosocial ways to think and behave.

Public Safety

In its broadest context, public safety involves the protection of the general population from all manner of danger, injury, damage, harm, or threats over which the juvenile justice system does not have control and is not responsible, e.g., natural disaster, terrorism or international threats to homeland security, hazardous materials. However, in the context of crime and justice, public safety has been defined as “the condition of a place, at times when people in that place are justified in feeling free of threat to their persons and property.”

The fear of crime—real or imagined—can have a devastating impact on a community and individuals, sometimes even more so than the act itself. In the mid-90s, the public’s demand for safety was fueled by its fear of an apparent epidemic of serious and violent juvenile crime. In fact, nationally, the juvenile violent crime arrest rate peaked in 1994 and experienced 10 consecutive years of decline with a 49% drop between 1994-2000. That downward trend was broken in 2005 when the rate increased slightly.

There is no debate that the juvenile justice system has a responsibility to protect the community by responding with varying degrees, types, and lengths of control to the risks of delinquent offenders under its jurisdiction. Specifically, probation officers, as peace officers, are charged with enforcing the orders of the juvenile court and managing the risk known offenders pose to the community. However, the public will not view the juvenile justice system favorably if, for example, all robberies have been successfully prosecuted even though the robbery rate goes up. There’s more to it than that. Indeed, *public safety* cannot be achieved without the involvement of both official and unofficial “guardians” of the peace. Any viable crime control strategy requires the active engagement and participation, cooperation and collaboration of other systems, but especially the community. One of Pennsylvania’s guiding principles is that juvenile courts and probation departments must encourage and support informal systems of social control in setting clear expectations for and monitoring the behavior of children and youth. Indeed, the juvenile justice system can make no claims to broad community protection by emphasizing one-to-one or one-to-many contact-based relationships (i.e., caseloads). True protection comes when the juvenile justice system is integral to the fabric of the community in advancing public safety.

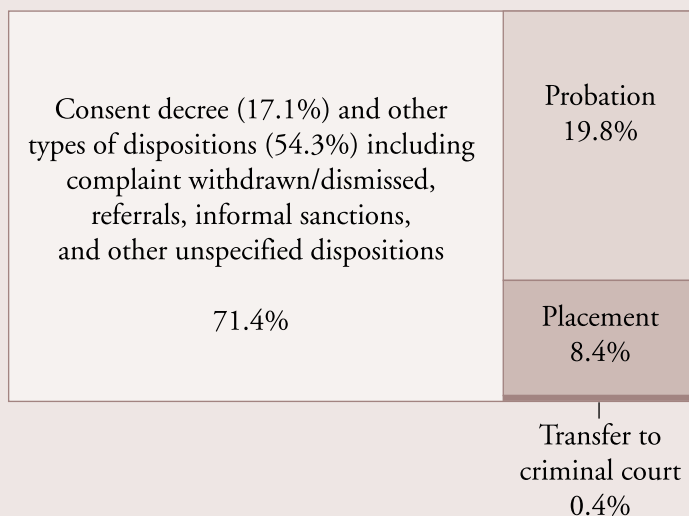
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What risk do young people pose to public safety?

The fact is many young people commit acts that could be considered crimes, based on their own reporting. Much of this is trivial misbehavior that does not pose a threat to person or property. Even those who behave in ways that warrant a justice system response, for the most part, are not serious, violent, or chronic offenders. Generally, young people who commit crimes fall into one of four categories and can reasonably expect a corresponding system response (see graphic):

1. **Lower risk:** For the most part, young people who commit crimes pose only a slight risk to public safety, which can be effectively managed in the community under a consent decree or informal probation. For these youth, achievement of the community protection goal is presumed, and the accountability obligation is paramount. In many of these cases, however, keeping the community safe does not require formal court handling. Diversion from the system is a reasonable option where youth can be held accountable outside the system through some type of legitimate restorative justice or community service program. Offenders should be engaged in productive activities with opportunities to learn skills, strengthen relations with prosocial adults and build community bonds.
2. **Moderate risk:** Some young offenders under the juvenile court's jurisdiction pose risks that can be managed effectively in a community-based setting under some form of probation supervision where their most pressing skill deficits can be addressed and accountability obligations fulfilled.
3. **Higher risk:** Some young offenders processed by the juvenile justice system pose risks that cannot be managed effectively in a community setting. Less than 10% of initial dispositions handed down by juvenile courts involve removal from the community to some type of placement, either non-secure or secure. In these settings, the offender will be expected to address their most pressing needs, develop skills, and fulfill their accountability obligations.
4. **Highest risk:** A small fraction of young offenders commit egregious crimes or pose significant public safety risks for which prosecution in the criminal system will best serve the public interest. Pennsylvania waiver and direct file laws

Juvenile Justice System Response to Delinquency Cases Referred in 2006



Data Source: 2006 Pennsylvania Juvenile Court Dispositions. Harrisburg, PA: Juvenile Court Judges' Commission.

permit or require persons under the age of 18 to be tried and sentenced as adults in certain situations.¹ A reverse waiver provision permits young people whose cases have been directly filed in criminal court to be considered for transfer to the juvenile court.

The juvenile justice system is mandated to consider the interests of the community, the victim and the offender in fashioning individualized responses in every case as opposed to an exclusively offense-based or mandatory sentencing scheme characterized by the criminal justice system. To fulfill this mandate, the juvenile justice system must have at its disposal, options that allow it to respond to a juvenile's risk and needs with varying degrees, types and lengths of control and intervention. The level of effort and response will depend on the expected length of involvement, the status (e.g., informal or intensive probation), and the setting (community or placement).

Mission-driven, Performance-based, Outcome-focused Juvenile Justice

Pennsylvania’s mission-driven juvenile justice system and its balanced attention mandate mean that decisions at each point in the process must be directed toward achieving each goal—not just community protection, but also offender accountability and competency development.

Pennsylvania’s juvenile justice system also strives to be performance-based, meaning that activities and methods calculated to achieve each goal in each case are identified and implemented. Typically, juvenile offenders and probation officers perform these activities.

The system is also outcome-focused, meaning that we’ve defined success and measure our results. What does success look like regarding the Accountability goal? The offender understands and acknowledges wrongdoing and takes action to repair the harm to the victim to the greatest extent possible, and victims are given an opportunity to participate in the justice process and have their rights protected. Regarding the Competency Development goal, success means that youth leave the juvenile justice system more capable of being law-abiding and productive citizens than when they entered. Previous White Papers defined each one of these goals and the juvenile justice system’s role and activities aligned with it, but it’s important to reiterate here that it’s the sum total of all activities aligned with each goal that is likely to produce the intended results.

What does success look like regarding the Community Protection goal? Typically, reduced recidivism, law-abiding youth, and safer communities come to mind. What works to reduce recidivism? Research has documented a link between good probation practices, a juvenile’s use of services and completion of planned activities and lower rates of rearrest and higher rates of positive outcomes.² Activities in support of this goal include: 1) identifying the risk, 2) managing the risk, and 3) minimizing the risk.

I. Identifying the Risk

The community protection goal calls for an assessment of the risk the youth poses to person or property. A key objective is to distinguish lower-risk offenders from higher-risk ones. Knowing the level of risk assists probation officers in 1) determining how to handle the complaint at the front-end, 2) recommending the level of contact, control measures and structure required to reasonably manage the risk an offender poses, and 3) developing and monitoring a plan of activities aimed at minimizing the risk. Distinguishing lower-risk offenders from higher-risk offenders is essential because it is both unnecessary and wasteful to give the same response to all juvenile offenders.

Research has isolated factors that put juveniles at risk for continued delinquent behavior. These factors are both static (current and historic events or circumstances that cannot be changed and are associated with delinquency) and dynamic (factors highly correlated with delinquency that are amenable to change). Dynamic risk factors are also referred to as “criminogenic needs,” highlighting (and often confusing) the different dimensions of risk. At the same time, researchers have isolated protective factors that seem to moderate the impact of risk and help youth overcome adversity. (See “Risk and Protective Factors” sidebar.) For probation, some measure of investigation and assessment into these factors begins as soon as the youth is referred to court and continues throughout the life of a case.

Risk classification is a method used to assign youth to low, medium, or high-risk groups that have different levels of system response or contact or service standards. Some departments use a risk-screening instrument that assigns scores or weights to each item being measured with the total score indicating the level of risk. These instruments are based on group data that establishes different probability rates for each group’s risk of reoffending. It is worth noting that these instruments cannot identify precisely which offenders in each group will reoffend. Some members of each group will reoffend, others will not. In this sense, risk classification should best be viewed as a management tool for monitoring trends in the risk composition of the incoming juvenile offender population and for comparing outcomes for similar risk cases across system responses or programs.³

A reasonable approach to risk classification includes a standardized set of questions to be answered, risk factors to be considered and a method for gathering, organizing, and interpreting the information to determine levels of risk and need. Beyond that, departments need a list of available options for responding to risk at various points in the process and guidelines for choosing among the options.

Risk and Protective Factors

In order to target higher risk offenders for more active interventions and provide good case management that's designed to achieve juvenile justice system goals, probation officers need to consider a lot of the "right" information compiled as a result of a structured assessment of relevant factors. To assist POs in this task, departments should have: 1) a standardized set of questions to be answered / circumstances to be considered to ensure that all POs are assessing through the same lens across all relevant delinquency-related domains, 2) a clearly articulated method for using all of the information collected to determine levels of risk and need, 3) a list of local dispositional options and what they have to offer in the way of programming, services, and supports, and 4) guidelines for choosing among the options. Beyond that, training in the protocol, good interview techniques, and interpreting and using the results would be required along with supervisory oversight.

Relevant factors to be considered include static and dynamic risk factors and protective factors. Static risk factors are current and historic events or circumstances that cannot be changed and that are associated with delinquency, including:

1. Age at first offense
2. # of prior arrests/referrals/adjudications/placements/failures to adjust/absconding
3. Early pattern of conduct problems—lying, stealing, truancy or drug use

Dynamic risk factors—also known as "criminogenic needs"—are circumstances and conditions that are highly correlated with delinquency that can potentially be changed, including:

1. Competency development domains:
 - ▶ Prosocial (poor social interaction, impulse control and problem solving skills)
 - ▶ Moral reasoning (antisocial thinking, attitudes, values and beliefs)

The process of developing and implementing a protocol that outlines this approach is labor intensive and requires administrative support, significant training and supervisory oversight. Nevertheless, such an approach gives structure and consistency to decision making without eliminating professional discretion or judgment, is designed to improve the quality of decisions, and lends equity to the process.

- ▶ Education (poor school performance and behavior, attendance problems)
 - ▶ Workforce development (for older youth: poor work history, lack of work readiness and career development skills)
 - ▶ Independent living (for older youth: lack of daily living skills)
2. Peer associations
 - ▶ Negative peers, lack of prosocial peers
 3. Violent, aggressive or assaultive behavior
 4. Recent substance use
 5. Family functioning / parenting attributes
 - ▶ Poor parent / child relationship
 - ▶ Poor parental control and supervision

A listing of common protective factors (or strengths) includes:

1. Clear, consistent parental supervision
2. Strong family ties (bonding and attachment)
3. Having a good relationship with a positive adult role model (teacher, mentor, coach)
4. Strong community ties
5. Engagement in school
6. Realistic career goals
7. Employment skills
8. Opportunities for meaningful involvement in prosocial activities

|| II. Managing the Risk

Once a youth's risk has been identified, the juvenile justice system makes a series of decisions regarding how best to manage the risk the youth poses to the community, beginning with the manner of handling decision. Although the process varies from county

to county, juvenile probation officers make decisions regarding how to handle complaints against juveniles—whether to dismiss them outright, resolve them in some informal way, or bring them to the official attention of the court by means of a formal petition.*

It is important for decision makers to know what they are supposed to be trying to accomplish at the front end. There are a number of guiding principles at work here:

- ▶ Keep the “intake valve” tight: handle each case with the least restrictive means consistent with the public’s safety
- ▶ Reserve limited system resources for more moderate and higher-risk offenders who respond better to more intensive services
- ▶ Guard against the tendency to “over-consequence” lower-risk offenders, requiring more involvement and expending more effort and resources than necessary to meet system goals. Similarly don’t “give a slap on the wrist” to offenders at higher socio-economic levels whose parents are willing to pay restitution to get them off the hook
- ▶ Do no harm: in the short term, minimize disruption of a young person’s “prosocial stakes” that may occur as a result of formal processing
- ▶ Handle all cases coming to the juvenile justice system’s attention quickly, equitably and consistently

Detention Status and Short-term Risk Management

It is important to distinguish between short-term and long-term risk management. In the short term, decision making for youth identified as moderate to higher risk may include consideration of the need for pre-trial detention, in a secure facility or less restrictive alternative, to ensure their presence at trial and control their behavior. This is best accomplished through the use of a detention screening process that focuses on a few key factors that zero in on a youth’s risk of flight or reoffending between arrest and trial.⁴ The shorter the period of time between these two events, the less the risk that needs to be managed. For those youth deemed eligible for secure detention, there are risk management methods other than the use of secure detention, and department guidelines should specify criteria for the use of alternatives to secure detention as a way of managing short-term risk.

Beyond the detention decision, the manner of handling decision for youth identified as moderate to higher risk is fairly straightforward: formal handling in juvenile court.

* Please note that determining whether the complaint is legally sufficient to support a case in court is a separate issue, which often involves the prosecutor.

Of course, youth who deny their charges or desire a hearing, regardless of risk, are entitled to have their day in court. For youth identified as lower-risk, the decision is a bit more complicated. Generally, however, all manner of handling decisions should attempt to protect the community, hold juveniles accountable for their actions, build competencies, and address the needs of the crime victims. Decision makers need to know what options are available to them at this point and what the guidelines are for choosing among them.⁵ Front-end options available to various decision makers for responding to lower-risk youth short of filing a petition include:

- ▶ “Warn and dismiss” or “counsel and advise”
- ▶ Referral to another agency
- ▶ Informal adjustment, which may include diversion to conflict resolution, restorative conferencing, or Youth Aid Panel
- ▶ Consent decree

Disposition and Long-term Risk Management

Disposition is the major risk management stage in the juvenile justice system. It is worth noting that longer-term risk becomes clearer at trial and at disposition. At trial, one gets a sense of the youth’s participation in the offense; at disposition everything else comes into play. It is at these stages that judges and attorneys, in particular, get to hear from the relevant parties.⁶ Clearly, probation plays a critical role in assembling information for the court’s consideration in fashioning delinquency dispositions that provide balanced attention to the juvenile justice system’s goals.

At the point of making a disposition recommendation, probation determines whether the offender’s risk can be effectively managed in the community (and at what level of contact/supervision or measure of control; e.g., electronic monitoring, curfew) or whether placement is required. Considerations in this regard include: 1) the risk to any person or property posed by the offender, 2) the community’s tolerance for the kind of risk posed by the offender, 3) the culpability of the offender and the consequences of the offense, and 4) the juvenile’s most pressing needs related to his offending behavior, which will be the focus of the intervention to minimize the offender’s risk.

The disposition recommendation helps juvenile courts determine what measures will be “right” for individual offenders in accordance with the Juvenile Act’s balanced attention mandate. In general, however, most juvenile offenders do not need to be “sent away” for risk to be managed. Pennsylvania’s juvenile justice system operates under the principle

of least restrictive setting required to protect the community, which is tied to a long-standing policy of keeping juvenile offenders in their communities. It is important to note here that *the level of restriction imposed should match the level of risk, not the level of need*. This means that the system must balance risk against needs and not impose custody measures in order to respond to need alone. The most challenging clients in terms of their needs (serious mental illness, for example) are not always the ones who pose the greatest risk to the community. These youth should not be incarcerated; neither should they be unjustifiably diverted. Youth should not be diverted merely for the sake of diversion, but because diversion is consistent with the risks posed and the mission of the system.

Decision makers need a range of supervision, control, and custody options for managing the risk of offenders that have penetrated the system and guidelines for choosing among them, including:

- ▶ Probation supervision with different contact standards ranging from informal and regular to intensive supervision
- ▶ Specialized probation caseloads for specific offenders (sex offenders, drug offenders)
- ▶ Augmented forms of probation supervision:
 1. School-based or community-based probation
 2. Afternoon / evening reporting program
 3. Day “treatment” or reporting program
 4. Electronic monitoring, house arrest, curfew, weekend detention
 5. Police-probation teams that actively monitor youth on intensive probation, serve outstanding warrants, or conduct surveillance
- ▶ Placement in non-secure facilities / community-based group homes
- ▶ Placement in secure public or private facilities
- ▶ Aftercare supervision*
- ▶ Range of incentives to encourage compliance and sanctions for noncompliance

It should go without saying that “fortress probation” and good risk management are diametrically opposite concepts. Conducting supervision mainly in office settings during normal business hours contributes little to the management of offender risk. The value of

* Throughout placement, probation is monitoring a youth’s progress and reassessing the risk he poses to the victim and community to determine whether that risk can be reasonably managed back in the community on aftercare supervision and under what conditions, including whether there is a risk to the offender’s safety upon return home. Please see “Building Pennsylvania’s Comprehensive Aftercare Model” (forthcoming) for a more thorough discussion.

Community as a Key Partner

The flip side of being a client of the justice system is actively participating in the solution to address juvenile crime. In many respects, the community is the first line of defense when it comes to certain crimes like robbery, drug sales, and auto theft. When neighbors start reporting illegal activity they see in their neighborhoods, they become active participants in reducing crime. Unfortunately, a history of distrust between members of some communities, particularly urban neighborhoods, and law enforcement hasn't helped matters, and it can be hard to be an eyewitness. Ironically, as one local commentator put it in response to complaints that cops don't respond when called, if folks "didn't largely observe a vow of silence when it comes to assisting in crime investigations, they might see more patrol cars and more crimes solved." In other words, he claims, "accountability equals protection." Community protection begins at the time of the offense, not arrest, and community members (victims and witnesses) have an obligation to report crime and cooperate with law enforcement in the investigation and prosecution of cases.

A common scenario offered by a community mobilizer highlights the results of such cooperation: In the 6400 block of "Elmwood Street" one night, two neighbors noticed an unfamiliar teenager in front of a vacationing neighbor's house. After calling police, they asked him what he was doing. He mumbled that he was waiting for someone. At that moment, two other young men came from behind the house and squared off with the neighbors saying, "What's up?" They then walked down the street and were stopped by the police. One of the men had a knife, and police were suspicious that they may have thrown any other weapons away.

As they were sharing information in front of the house, a pizza delivery driver showed up and began walking to the door. Police stopped him and explained the situation. He had been set up. The shaken driver thanked the crowd of neighbors and gave them the pizza. He said that his wife prays for his safety every time he walks out the door to deliver pizza. Police confirmed that the men had made the phone call and took them in. Thanks to watchful neighbors and quick action by police, a robbery, or perhaps worse, was averted.

continued on page 16.....

unannounced home visits by juvenile probation officers in the evening and on weekends, for example, cannot be underestimated. Not only will the PO be more likely to find parents at home and see a more real picture of the probationer's home life, but the effect on offenders can be quite a reminder that they are under supervision and have obligations to fulfill.

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Recognizing that all neighborhoods are not the same, and that some are disorganized and dangerous, how can community members be engaged and supported as collaborators in fighting crime?

- ▶ Volunteer: assist victim advocates, become a mentor or tutor
- ▶ Be advocates for youth / promote positive youth development: expect healthy beliefs, set clear standards for lawful behavior, build pro-social bonds, and encourage development of opportunities to learn some skills and be recognized for it
- ▶ Complement young people when they behave well
- ▶ Be willing to report crime and cooperate with law enforcement in the investigation and prosecution of cases
- ▶ Know what's going on the community; know where the hot spots and safe havens are
- ▶ Be part of a planning group to assess community risks, identify local resources, and plan improvements that address the risks
- ▶ Advocate for programs designed to resolve conflict in schools and neighborhoods like youth aide or community accountability panels and other restorative practices
- ▶ Provide opportunities for youth to learn some skills: hire a youth
- ▶ Support healthy families and help for struggling parents
- ▶ Mobilize communities / neighborhood watches to work with police

Sources:

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|| III. Minimizing the Risk

Following disposition by the court, probation is responsible for developing and overseeing a course of action that has the greatest likelihood of achieving the desired outcomes of law-abiding, productive and connected citizens who have made amends. The PO considers the converging interests of the community at large, the victim, the juvenile offender, and the family in developing that course of action, which is best embodied in a

written supervision plan. Level of effort and resources expended will depend on:

- ▶ Offender’s risk, needs and strengths
- ▶ Expected length of involvement with the system
- ▶ Setting

All along the way, the probation officer is working to help the juvenile transition from external controls imposed by the system to internal ones.

What works to minimize risk and reduce recidivism? In a nutshell, the juvenile court’s intervention should target offenders’ most critical or pressing “criminogenic needs” by engaging them in effective techniques designed to address those needs. At the same time, the system has a responsibility to capitalize on a young person’s strengths or protective factors by providing opportunities to form prosocial bonds with positive adult role models and strong community and school ties.

Criminogenic needs are dynamic risk factors directly related to the youth’s offending behavior that are most amenable to change (see “Risk and Protective Factors” sidebar). Effective techniques⁷ include:

- ▶ Cognitive behavioral approaches, based on the principle that deviant behavior stems from deviant thinking, these interventions:
 - ▶ help offenders understand how their thinking impacts their behavior and
 - ▶ teach them new skills and behavioral strategies for prosocial ways to think and behave.
- ▶ Skill training programs, good ones:
 - ▶ employ a curriculum designed to improve a specific skill or set of skills,
 - ▶ tap qualified and competent facilitators and train them to deliver the curriculum,
 - ▶ include a teacher’s manual and a student workbook,
 - ▶ incorporate a variety of trainer techniques, and
 - ▶ come with pre and post test to measure knowledge acquisition.
- ▶ “Blueprints” Programs: Functional Family Therapy (FFT), Multisystemic Therapy (MST) and Multidimensional Treatment Foster Care (MTFC).
- ▶ Services and supports that help parents set clear expectations for and monitor the behavior of their children and learn other parenting skills.
- ▶ Treatment protocols for substance abuse, sexual aggression, mental illness.

Responsibilities and Limits of the Juvenile Justice System

“Risk” refers to probabilities. The best programs will succeed less than all the time. The challenge for the juvenile justice system—as with all risk management systems—is to have the highest rate of success possible. However, there are limits. The juvenile justice system can’t *make* kids competent or accountable. Neither can it *make* communities safe. The juvenile justice system can only contribute to public safety. Efforts to develop competencies and address an offender’s most pressing needs should be designed to help them transition from external system controls to internal ones. Neither can the justice system control criminals or prevent crime on its own. It is the responsibility of the system to partner with communities and law enforcement and raise public awareness about the limits and responsibilities of the system, the realities of juvenile crime, and the consequences of illegal behavior.

Decision makers, practitioners and the public must be realistic in their expectations about what the system can achieve given the time it chooses to work with a delinquent youth in the lifespan of that youth. The juvenile justice system is responsible for managing the risk an offender poses to community safety. The duration of intervention (like the level or degree of control) must depend on the offender’s risk and needs. By giving judges the option to place a youth charged before his 18th birthday until age 21, the Juvenile Act recognizes there is no magic timeframe in which an individual offender’s risk or needs will be met.

The juvenile justice system is also responsible for implementing approaches, strategies, and policies shown to be effective at controlling crime and criminals. Although the system’s resources are not unlimited, funding that is aligned with achieving system goals, including funds for training personnel, purchasing court-ordered services and programs, and supporting the case management functions of the judiciary and probation is required.



Roles and Responsibilities

Juvenile courts and probation departments have primary responsibility for achieving the juvenile justice system's goals and fulfilling the Juvenile Act's balanced attention mandate. Unlike most states, juvenile courts and probation departments in Pennsylvania have responsibility for young offenders from the time they enter the county's juvenile justice system until the court terminates its jurisdiction over them. Judges have the authority to order placement in a specific program/facility, set the anticipated length of stay and determine the timing of release. At the state level, the Juvenile Court Judges' Commission and the Pennsylvania Council of Chief Juvenile Probation Officers are committed to and play key leadership roles in advancing juvenile justice goals and supporting the implementation of good practices at the local level that are designed to achieve system outcomes. Although juvenile courts and probation departments have primary responsibility, the more they have access to the services and resources of other systems—mental health, substance abuse, child welfare, education—the more effective they can be.

Judges:

Juvenile Court Judges have oversight responsibilities for ensuring that all processes and decisions are fair, rational, and consistent with the purposes of the Juvenile Act. They consider the interests of all parties in order to protect the public's interest. In fashioning dispositions, juvenile court judges are to give balanced consideration to each goal and set clear expectations that the ultimate goal of the juvenile court's intervention is to help youth transition from external controls to internal ones. While under the court's jurisdiction, judges review enforcement of their orders and monitor an offender's progress, in effect determine whether that transition is occurring.⁸

Judges are also responsible for ensuring timely process and disposition and addressing any inefficiency in filing allegations and petitions, serving notice, calendaring, or distributing court orders. Although efficiency is not the goal, judges should limit continuances to legitimate reasons, e.g., investigation not completed. Swiftswiftness benefits the public interest in terms of community protection and the interests of both victims and offenders.

Juvenile Probation:

Probation officers, as peace officers, have the legal authority to enforce the court's orders.⁹ In addition, under certain situations and specific criteria, the Juvenile Act gives probation officers arrest powers and the authority to search the person and property of delinquent youth under juvenile court jurisdiction.¹⁰

Probation is responsible for conducting pre-disposition investigations, making disposition recommendations, carrying out the court's dispositional orders, providing supervision and monitoring an offender's progress for as long as the youth is under the court's jurisdiction. One of juvenile probation's primary activities is to develop and manage a course of action that has the greatest likelihood of helping youth to leave the system more capable of leading law-abiding, productive and connected lives. It is the sum of all of these case management activities the officer engages in that will protect the community and assist the youth in behavior change and accountability.¹¹

Law Enforcement:

Police officers are the first line of defense in combating crime and as such are the gatekeepers of the juvenile justice system. Police officers are given wide discretion in their handling of young people who are accused of crimes. Recognizing that not all offending behavior requires an arrest, they frequently make what are called "street or station adjustments" in lieu of arrests, releasing juveniles unconditionally after arresting them, releasing them with a warning, or releasing them on condition that they report to entities other than the juvenile court, such as "citizen hearing boards." In nearly half of all cases involving juveniles, police officers make a referral to juvenile court based on preparation of written allegations.¹² Typically, the factors that influence these decisions include public safety considerations, community attitudes toward juvenile crime and victimization and the availability of a range of options for responding. Upon arrest, police officers must comply with state law concerning fingerprints and photographs of juveniles (see "Juvenile Records" sidebar).

Law enforcement's role involves more than just the mechanics of "taking a report" or "clearing a case." Police officers and police departments must be knowledgeable about the juvenile justice system's goals—what that means in terms of benefits to offenders, victims and communities—and willing to work with local probation to determine how to initiate the most appropriate processes in order to accomplish the system's goals. They also need to understand and embrace the concept of balanced and restorative justice. No matter what the rank, a police officer needs to understand and acknowledge that all

communities are worthy of being protected and all victims worthy of being restored. In practice, this means that victims and witnesses should be encouraged and supported in coming forward during law enforcement's investigation. Beyond that it is essential that there be a seamless connection between law enforcement and juvenile probation and the court system. This will only become a reality if the police and probation make a conscious effort to work together.

Prosecutors:

By virtue of their charging authority as chief legal officers, prosecutors are also gatekeepers of the justice system. They have discretion to propose transfer from juvenile to criminal court and to oppose transfer from criminal to juvenile court. As a group, prosecutors have long embraced the need to protect the community and hold offenders accountable and have taken leadership roles to develop community-supported diversion programs. The National District Attorneys' Association adopted balanced and restorative justice principles in the 2002 amendment to its Resource Manual and Policy Positions on Juvenile Crime Issues. In a subsequent report more fully explaining the concepts, prosecutors are strongly encouraged to ensure that programs—from diversion to institutions—include accountability and competency development features as the way of best serving community safety.¹³

Defense Attorneys:

A vigorous, knowledgeable defense attorney promotes public safety in several ways. A good defense attorney educates adolescents about choices and consequences and teaches them about fairness. A youth's perception of fairness is important to legal socialization, which is part of increasing respect for law and controlling behavior. Ideally, good defense attorneys are actively engaged in the disposition and re-entry, all of which are designed to be developmentally appropriate processes that protect the community, hold the offender accountable and develop offender competencies. Defense attorneys help to ensure that any concerns regarding the welfare and safety of the juvenile are being addressed and advocate for appropriate juvenile justice system responses to be available locally.

Both groups of attorneys need to know what dispositional options are available in their communities, have timely access to probation's social summaries and disposition recommendations, and be prepared to offer recommendations to the court about the proposed disposition recommendation.

Public and Private Facilities:

The Department of Public Welfare is responsible for licensing public and private facilities for delinquent youth—including temporary detention or longer-term secure facilities, general residential facilities, shelter facilities, and community-based group homes—consistent with the level of care and security provided. Facilities have physical custody of the youth and are responsible for providing a safe environment for residents while ensuring the protection of the community. Beyond health and safety requirements, facilities provide a range of services to address the needs of the youth and staff perform some of the same activities as probation officers, including: risk/needs assessment throughout duration of service, case planning and management, monitoring, enforcing court orders, facilitating engagement in prosocial activities and community service programs, and documenting intermediate outcomes for the duration of commitment until discharge. Collaboration between facility staff and probation is essential in order to smooth transitions, integrate treatment and aftercare services, and ensure appropriate education placements and goals. Pennsylvania’s comprehensive aftercare initiative has developed model strategies in this regard.¹⁴

Private providers share concerns regarding community protection not only in an abstract way, but also on a more direct level. Providers have an awareness of the need to maintain a “good neighbor” image within their local community. Their organizational well-being depends upon the public’s perception of being able to ensure an acceptable level of community protection in spite of the implied heightened level of risk their residents represent.

Public agencies:

Access to services from other systems increases the juvenile justice system’s chances of holding youth accountable in appropriate ways while meeting their needs and managing their risks. Suffice it to say that lack of good community-based mental health and substance abuse services for children and youth has been a source of great frustration to families, juvenile court judges and probation officers. Local efforts are needed to improve the coordination of and access to behavioral health services for court-involved youth. Likewise, since academic failure is a pathway to delinquency, schools are important partners in promoting public safety. Schools can connect at-risk students and their families with prevention and support services and school districts should be encouraged to assist struggling students to catch up in school and advance to the highest academic level possible and to better link education to workforce development.¹⁵

Juvenile Records: An Aspect of Community Protection

Official records are an important part of community protection. Local law enforcement agencies maintain arrest records involving juveniles and local juvenile courts maintain records on how cases referred to it were handled and how petitioned cases were resolved. These official records are important for monitoring local and statewide trends in juvenile arrests and court activity or decisionmaking at various points in the system. It is also essential that timely, accurate and complete information contained in these records is available, as appropriate, to decision makers at every stage of the juvenile justice process.

In addition to arrest information, police are required to forward to the central repository of criminal history record information maintained by the Pennsylvania State Police, the fingerprints and photographs of any youth found to be delinquent for a misdemeanor or felony offense. To facilitate this requirement, the arresting officer has the authority to take or cause to be taken the fingerprints or photographs of any youth alleged to have committed a misdemeanor or felony offense at the time of arrest. By most accounts, Pennsylvania has done a relatively poor job of complying with the Juvenile Act's requirements regarding submission of fingerprints and photographs to the State Police. More attention is needed to bring the state into compliance with existing laws regarding the taking and storing of this potentially valuable crime-solving data, including DNA samples in appropriate cases.

Notwithstanding the value of accurate and complete records for the purpose of offender identification and control, it is also important to point out that the utility

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Communities:

Communities contribute to their own safety by being actively engaged in the justice system. Neighborhoods, faith communities, youth service organizations have an essential role in facilitating community protection, but the system must engage and support their collaboration. (See "Community as a Key Partner" sidebar).

Families:

Families can play a critical role in increasing public safety. The juvenile justice system must engage families as informal systems of social control. It is through persons closest to the offender that probation officers often learn valuable information about their clients and forge partnerships that can bring about permanent change. For families struggling to meet the demands of parenting, family-focused intervention programs, such as Multisystemic Therapy and Functional Family Therapy that help parents learn how to better supervise and manage their adolescents so that they act responsibly, have proven to be effective.

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of maintaining these records may diminish over time for youth who are not repeat offenders or when a youth ages out of the system and his ability to get on with his life, gain employment or enter the military are impaired. The Criminal History Record Information Act allows for expungement of juvenile records after 30 days' notice to the prosecuting attorney, whenever the court on its motion or that of the youth (or his parents/guardians) finds that: 1) a complaint filed was not substantiated or a petition filed was dismissed, 2) six months have elapsed since the discharge of a consent decree and no adjudication or adult conviction is pending, 3) five years have elapsed since the discharge from placement, probation or any other disposition /referral and the person has not been convicted of a felony, misdemeanor or adjudicated delinquent and doesn't have a pending proceeding, or 4) the individual is at least 18 years of age, the prosecutor consents and the court orders expungement after considering certain factors.

Courts and probation departments need to understand the law, since it provides that in all cases in which expungement would be granted if a juvenile were to request it, courts could set in place procedures under which the probation department initiates the expungement process automatically after the appropriate length of time has elapsed.

Sources:

42 Pa.C.S.A. sections 2301, 6308 and 6309.

18 Pa.C.S.A. Part III, Ch 91. Subchapter C. Section 9123.

Measuring Community Protection

Success regarding the Community Protection goal revolves around some indication that juvenile court-involved youth are no longer committing crimes. One measure of recidivism refers to subsequent offending that comes to the attention of the system. Since the only available statistical indicators of criminal behavior are official records of system events, this and other measures of recidivism underestimate reoffending since they only include offending that comes to the attention of the system. Nevertheless, people want to be assured that juveniles under court supervision are no longer getting into trouble.

There is no national recidivism rate for juveniles and confusion abounds as to what recidivism means and how it is measured (e.g., rearrest, another referral to juvenile court, readjudication in juvenile court or conviction in criminal court, reconfinement or a change in status within a given period of time).¹⁶ The task is also difficult due to variations in juvenile justice system processing across and within states and comparisons that do not take into consideration variations in re-offending behavior as determined by the severity of subsequent offenses, time to reoffend and frequency of reoffending. The most useful recidivism analyses include the widest possible range of system events that correspond with actual reoffending and include sufficient detail on the factors listed above. However, that level of analysis requires a complex and often expensive research study. One such study for Pennsylvania found that statewide, from 1997 through 2003, about 24% of youth ages 10-16 returned to juvenile court on a new referral within one year of a prior referral.¹⁷

Without minimizing the importance of recidivism as a long-term outcome measure, Pennsylvania's juvenile justice system relies on shorter-term, intermediate indicators of community protection to measure day-to-day achievement of the community protection goal—whether juveniles under juvenile court jurisdiction are adjudicated for new offenses committed while under supervision or commit serious violations of probation that result in new, more restrictive juvenile court dispositions.

Pennsylvania juvenile courts are mandated to report juvenile justice performance data on juvenile justice system goals to the Juvenile Court Judges' Commission. The focus of this reporting is on success rates—as opposed to “failure” rates—and other measures of accomplishment such as proportion of community service hours ordered/completed. Probation officers are accountable for documenting these intermediate outcome measures at case closing. A pilot effort to identify and measure goal-driven outcomes at case closing has been incorporated into Pennsylvania's automated Juvenile Case Management System allowing counties to easily report and the state to measure the degree to which all offenders under juvenile court jurisdiction are successfully supervised without being adjudicated for committing a new offense or serious probation violation.

Beyond recidivism data, the juvenile justice system (county probation departments or local juvenile justice planning groups) should track some broader measures related to community protection such as trends in arrest for various offense categories and offender demographics (age, gender and race/ethnicity), “flows” through the system that depict the manner in which cases are handled at key decision points, processing times between key decision points, and the annual number of criminal sentences imposed on juveniles

and the type of sanction imposed. The ability of local juvenile justice leaders to monitor their juvenile justice system on a few broad indicators of system functioning requires accurate and complete reporting by law enforcement, prosecutors and the courts. It also requires a willingness to closely examine the data to verify that it is revealing what is intended in light of local practice and to look for the story behind the numbers. Efforts to use data at the local level for planning and monitoring purposes, informing practice, and educating the public will improve the availability and quality of the data over time. Lastly, surveys that measure the public’s perceptions of safety, their satisfaction with the juvenile justice system response, and whether they have been victimized and the nature of that victimization would also be of great value for promoting community protection.



Next Steps



There are several reasons Pennsylvania is considered a model for the nation in its approach to preventing and responding to delinquency, chief among them being the statutory mandate that established balanced attention to three goals—community protection, offender accountability, and competency development. Although other systems, communities and families play crucial roles, juvenile courts and probation departments are accountable for achieving the juvenile justice system’s goals and have responsibility for young offenders from the time they enter until their cases are closed from juvenile court jurisdiction. The combination of state leadership and vision with local autonomy and innovation and a commitment to research-based practices and programs are other strengths of our system. Finally, the JJDPC has aggressively pursued a common vision for juvenile justice system enhancement and the PCCD has aligned its juvenile justice and delinquency prevention funding to support this vision.

Pennsylvania has taken a stand. The three White Papers serve to “plant our flag” with respect to each goal, and this one also attempts to highlight the balance of activities that should be directed to achieving the three goals. Nevertheless, the White Papers are not intended to be the last word on the topic. Progress depends on translating the positions advanced in the White Papers into changes in policy and changes in practice on the ground by law enforcement, the court, attorneys, probation, victim advocates, and providers. The strategy for system enhancement efforts will continue to engage these local juvenile justice professionals in:

- ▶ Continuously refining Pennsylvania’s vision
- ▶ Identifying guidelines for good practices and research-based interventions
- ▶ Developing and disseminating resources, tools, curricula
- ▶ Providing forums, training and technical assistance
- ▶ Engaging communities and other systems in supporting juvenile justice goals

Future efforts will be directed toward improving compliance with existing state law regarding the taking and storing of fingerprints, photographs, and DNA samples of juveniles and increasing the timeliness, completeness and accuracy of the information captured by statewide data systems in order to support effective offender identification and control. At the same time, a protocol for the automatic expungement of appropriate juvenile records and the preservation of those “de-identified” records for research purposes will be established. Ongoing efforts will promote the utility of data-driven decision-making and provide analysis of recidivism rates that consider variations in local processing and include richer detail of critical factors.

Perhaps most significant are the efforts to support probation in fulfilling its responsibility to assist youth toward behavior change and accountability. Specifically, efforts to define good probation practice at the front end beginning with good screening and assessment, planning, and monitoring; efforts to compile a resource guide with examples of skill training curricula that support competency development of youth; and efforts to develop a model for comprehensive aftercare operating in county juvenile probation departments and in collaboration with facilities and schools are well underway. It is hoped that these developmental efforts will provide tangible, practical guidance to juvenile courts and probation departments willing to more fully embrace the vision and promise of balanced and restorative justice principles and that counties will receive the support they need to plan and implement more purposeful, intentional practices that are directed toward achieving juvenile justice goals. It is envisioned that these reforms—and others aimed at improving access to better behavioral health services and education and career development opportunities for delinquent youth—will lead to better outcomes for youth, safer communities and more effective use of limited resources.

Endnotes

- ¹ 42 Pa.C.S.A. sections 6355 and 6322.
- ² Chung, H., Schubert, C., and Mulvey, E. (2007). “An Empirical Portrait of Community Reentry Among Serious Juvenile Offenders in Two Metropolitan Cities.” *Criminal Justice and Behavior*, 34 (11), 1402 – 1426.
- ³ Jones, P., Harris, P., Fader, J., and Grubstein, L. (2001). “Identifying Chronic Juvenile Offenders.” *Justice Quarterly*, 18 (3), 479 – 501.
- ⁴ See Juvenile Detention Alternatives Initiative website at <http://www.jdaihelpdesk.org>
- ⁵ See Griffin, P. and Torbet, P. (Eds). (2002). *Desktop Guide to Good Juvenile Probation Practice*. Pittsburgh, PA: National Center for Juvenile Justice. Chapters 5, 6, and 7 provide considerable guidance regarding front-end intake, diversion and detention decisions.
- ⁶ Juvenile Court Judges’ Commission. (2008). *Pennsylvania Juvenile Delinquency Benchbook*. Harrisburg, PA: Juvenile Court Judges’ Commission.
- ⁷ Hunninen, M. (forthcoming). *Advancing Competency Development: A Resource Guide for Pennsylvania*. Pittsburgh, PA: National Center for Juvenile Justice.
- ⁸ See the *Pennsylvania Juvenile Delinquency Benchbook* (JCJC, 2008) for a more thorough discussion of judicial roles and responsibilities at each point.
- ⁹ 18 PA.C.S.A. sec 501.
- ¹⁰ 42 Pa.C.S.A. sec 6304.
- ¹¹ Torbet, P. (forthcoming). “Probation / Aftercare Case Management Essentials” in *Building Pennsylvania’s Comprehensive Aftercare Model*. Pittsburgh, PA: National Center for Juvenile Justice.
- ¹² Pennsylvania Uniform Crime Reporting System. *2006 Annual Crime Report*. Harrisburg, PA: Pennsylvania State Police.
- ¹³ Harp, C. (2002). *Bringing Balance to Juvenile Justice*. Washington, DC: American Prosecutors Research Institute.
- ¹⁴ See *Building Pennsylvania’s Comprehensive Aftercare Model* (NCJJ, forthcoming).
- ¹⁵ Griffin, P. and Hunninen, M. (2008). “Preparing Youth for Productive Futures.” *Pennsylvania Progress*. Pittsburgh, PA: National Center for Juvenile Justice.
- ¹⁶ Snyder, H. and Sickmund, M. (2006). *Juvenile Offenders and Victims: 2006 National Report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.
- ¹⁷ Snyder, H. (2006). “Pennsylvania Recidivism Study, preliminary findings” (unpublished). Pittsburgh, PA: National Center for Juvenile Justice.



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