

Overview of the Standards

This is an overview of the 20 volumes of the standards approved by the ABA, together with the names of the reporters assigned each volume. Included are the three volumes that were ultimately not endorsed by the ABA. As these are summaries, reference should be made to each volume of the standards to discern their content or supporting commentary, and just how transformative many of the standards can be. The complete set of standards and their commentary may be found on the Criminal Justice Section website at <http://tinyurl.com/agb7oer>.

Standards Relating to Police Handling of Juvenile Problems. The standards emphasize the role of the police in addressing serious or repeated criminal conduct committed by juveniles, preferring more informal handling of minor offenses, which might include referral to other service agencies in the community and citations in lieu of formal arrest. The standards also emphasize the development of sound policies and procedures for police involvement with youth and the larger community, and urge specialization for officers, such as juvenile officers, where circumstances permit. (Egon Bittner and Sheldon Krantz, reporters.)

Standards Relating to Interim Status: The Release, Control, and Detention of Accused Juvenile Offenders between Arrest and Disposition. The standards set out separate rules for the different decision makers in the interim between arrest and trial, recognizing that the role of each actor is different, including police officers, intake officials, attorneys for the accused and the state, judges, and detention officials. The standards place a priority on release of the juvenile, reliance on citations as an alternative to arrest, limitations on discretion of each actor, and strict regulation of the detention process, including facilities. (Daniel J. Freed and Timothy P. Terrell, reporters.)

Standards Relating to Pretrial Court Proceedings. The standards set out the requirements for charging documents such as petitions, notice of charges and rights, initial appearance and the right to a hearing on probable cause, pretrial discovery, and calendaring. The standards also set out requirements for the provision of legal counsel, a right which may not be waived—at all—by the juvenile. (Stanley Z. Fisher, reporter.)

Standards Relating to Court Organization and Administration. The standards urge the creation of a family court division of the highest court of general trial jurisdiction to exercise juvenile court jurisdiction, jettisoning any reliance on referees or summary court judges for case decision making. The standards allocate responsibility for intake, probation, and detention services to the executive branch, with the judicial branch responsible for rulemaking, case decisions and review, and case processing. (Ted Rubin, reporter.)

Standards Relating to Prosecution. The standards call for the establishment of a separate unit in the

office of the prosecutor, closely involved with intake decisions for the prosecution, dismissal, or diversion of juveniles. The standards stress the traditional adversary role for the prosecutor in adjudication proceedings, consistent with ethical constraints relevant to the role of the prosecuting attorney and allowing the prosecutor an active, independent role in the dispositional phase. (James P. Manak, reporter.)

Standards Relating to Counsel for Private Parties. The standards address the role of counsel in all proceedings before the juvenile court, including delinquency and child protection, whether representing the child or the parent. The standards contemplate a system of provision of counsel, with compensation and resources adequate to support it. The standards stress the traditional role of counsel as advocate at every stage of the proceedings, with the client, however young, generally directing the attorney on decisions ordinarily those of any client. (Lee Teitelbaum, reporter.)

Standards Relating to Transfer between Courts. This volume sets out the limited circumstances under which a juvenile should be transferred to an adult criminal court, prohibiting any child younger than 15 years old from being transferred to such a court, and limiting the offenses for the basis of transfer to the most serious of offenses. Any hearing on transfer should occur quickly, as early as 10 days after filing of the motion, and any decision on transfer based on the elements the court should consider should be immediately appealable, by the defense or the prosecution. (Charles Whitebread, reporter.)

Standards Relating to Adjudication. These standards govern the conduct of trial in the juvenile court, known as adjudication, and address requirements for those proceedings that are either contested or uncontested. The standards provide for a trial by jury, at the request of the juvenile, in public, unless those rights are waived by the juvenile. (Robert O. Dawson, reporter.)

Standards Relating to Dispositions. The standards contemplate an array of dispositional alternatives, stemming from reprimand to conditional sentences including restitution, fines, or community service, or custodial sentences. Any such disposition should be the least restrictive category and duration for the offender, and the court should have the requisite authority to modify and enforce dispositional orders. (Linda R. Singer, reporter.)

Standards Relating to Dispositional Procedures. Those dispositions are to be arrived at through the use of the procedures outlined in this companion volume. The imposition of a disposition is reserved for a judge, based on relevant, reliable information about the offender and the offense, and a formal hearing resulting in specific findings supporting the disposition imposed. The use of predisposition conferences and disposition agreements to resolve factual disputes

about dispositions or to identify alternative dispositions are encouraged, however. (Fred Cohen, reporter.)

Standards Relating to Juvenile Delinquency and Sanctions. The standards reject a *parens patriae* theory of an illusive rehabilitative ideal in favor of consequences and coercive sanctions proportionate to the offender and the offense. These include determinate sentences for maximum terms to be established by local jurisdictions, with limitations on the type and duration of the sanction—sentencing classification. The standards recommend a minimum age of 10 before a child could be prosecuted, and create a reasonable juvenile defense for proof of *mens rea*. (John M. Junker, reporter.)

Standards Relating to the Juvenile Probation Function: Intake and Predisposition Investigative Services. These standards provide criteria for intake investigations and interviews or reports, dismissal and diversion of complaints regarding juveniles, and requirements for formal processing of complaints as charging petitions. The standards also address the organization and administration of intake and investigative services and staffing requirements. (Josephine Gittler, reporter.)

Standards Relating to Corrections Administration. The standards call for a single state agency with responsibility for the administration of juvenile corrections separate from that of adult corrections. The standards describe a variety of residential and non-residential programs, all of which are to provide for a safe, human and caring environment. The standards also set out a disciplinary system with levels of infractions and procedures, and a system of accountability that relies on grievance mechanisms, monitoring, and ongoing evaluation. (Andrew Rutherford and Fred Cohen, reporters.)

Standards Relating to Architecture of Facilities. A companion to juvenile corrections, these standards stress facilities that promote normalization of behavior rather than reinforcing deviancy, and small, community-based facilities that rely as much or more on staff than hardware to provide security. These standards address the architecture of group homes, secure detention facilities, and corrections facilities. (Allen M. Greenberg, reporter.)

Standards Relating to Youth Service Agencies. The standards urge the passage of legislation in local jurisdictions to establish youth service agencies offering a continuum of services to juveniles and their families in the community, encouraging informal referrals and more formal referrals from the police and the courts. These standards contemplate a well-funded, well-sourced agency that can provide services or referrals to youth, ranging from medical and counseling services to educational programs, job training and placement, and even legal services, based on a planning process identifying local needs.

(Judith Areen, reporter.)

Standards Relating to Appeals and Collateral Review. These standards provide for an appeal of right, with the assistance of counsel and the record on appeal, at public expense if the juvenile is indigent. Any such appeal should be expedited. The standards also provide for judicial review by the original court every six months of every order committing a juvenile to a facility or declaring the juvenile neglected, and this includes questions of the adequacy of treatment. (Michael Moran, reporter.)

Standards Relating to Juvenile Records and Information Systems. This is a thorough and comprehensive approach to the problem of the assimilation, distribution, and destruction of the mass of records and information attendant to the juvenile justice system. The standards impose limitations on the use of records by every agency and court involved with the juvenile and the family, providing for the retention and destruction of records. There is also a specific set of standards regulating the retention and destruction of social histories. (Michael L. Altman, reporter.)

Standards Relating to Planning for Juvenile Justice. The standards stress planning for services to be provided to juveniles and their families as a result of a deliberative process, primarily through regional juvenile services agencies guided in part by local juvenile justice boards. The standards also define the functions of juvenile justice planners, and set out roles for external participants—state executive and legislative leadership and the federal government. (Suzann and Leonard Buckle, reporters.)

Standards Relating to Monitoring. As important as planning, the standards also provide for mechanisms for the monitoring of programs to protect the rights of youth in the juvenile justice system, and evaluating the effectiveness of any process, program, or facility serving juveniles. These mechanisms include, among others, the creation of a state commission on juvenile advocacy and community advisory councils, and the appointment of an independent ombudsman with investigative authority. (Stephen R. Bing and J. Larry Brown, reporters.)

Standards Relating to Rights of Minors. This volume establishes the age of majority at 18, and recommends narrowly tailored legislation to determine whether a juvenile is emancipated by operation of law, rather than judicial decree. The standards also address the rights of youth to support, and the ability to work, enter into contracts, and obtain health care. (Barry Feld and Robert J. Levy, reporters.)

Standards Not Approved

Standards Relating to Noncriminal Misbehavior. These standards proposed to eliminate general juvenile court jurisdiction over status offenses and noncriminal misbehavior, in favor of a system of

intervention by police and others to obtain meaningful, ameliorative services for children who are in crisis. The standards would authorize police to use a limited form of custody to assist with the emergency placement of youth such as runaways in nonsecure care, and create alternative residential placements for youth in family conflict. (Aidan R. Gough, reporter.)

Standards Relating to Schools and Education. This volume governs the rights of youth to an adequate education and the ability of schools to regulate student behavior, providing procedural protections for student discipline. The standards also propose rights for students to free expression and privacy, and limitations on the interrogation and

searches of students. (William G. Buss and Stephen Goldstein, reporters.)

Standards Relating to Abuse and Neglect. Establishing a strong presumption for parental autonomy in child rearing, these standards propose narrow definitions of child maltreatment, and limitations on state authority to intervene in family life, permitting removal of the child as the alternative least harmful to the child. The standards address the functioning of the child welfare agencies and the courts in child abuse and neglect proceedings, including provision of services to children and their families, and termination of parental rights. (Michael S. Wald, reporter.)