An Implementation Evaluation of the

Juvenile Justice Reform Provisions of 1998

Part Two: Case Studies of New or Changed Juvenile Justice System Processes

Prepared for

The Illinois Juvenile Justice Commission

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Table of Contents

Table of Contents continued

IV. A CASE STUDY REPORT OF AN EXTENDED JURISDICTION JUVENILE (EJJ) PROSECUTION continued

Table of Contents continued

Table of Contents continued

List of Tables and Figures

A CASE STUDY REPORT OF A BALANCED AND RESTORATIVE JUSTICE PROGRAM

A CASE STUDY REPORT OF AN EXTENDED JURISDICTION JUVENILE (EJJ) PROSECUTION

A CASE STUDY REPORT DESCRIBING THE DISTINCTION BETWEEN FORMAL AND INFORMAL STATION ADJUSTMENTS

List of Tables and Figures continued

A CASE STUDY REPORT DESCRIBING THE DISTINCTION BETWEEN FORMAL AND INFORMAL STATION ADJUSTMENTS continued

I. Executive Summary

The Illinois Criminal Justice Information Authority began work on an implementation evaluation of Public Act 90-590 (the Juvenile Justice Reform Provisions of 1998) during September, 1999. The evaluation is presented in two separate companion documents. This document presents one component of the evaluation: a series of three case study reports examining three different juvenile justice processes that were changed or created by the Reform Provisions. The three juvenile justice processes were selected because they represented some of the more noteworthy and significant areas of change brought about by the Reform Provisions. The three juvenile justice processes examined via case study were: (1) a program that adopts the Balanced and Restorative Justice (BARJ) philosophy, (2) an Extended Jurisdiction Juvenile (EJJ) prosecution, and (3) station adjustments (in particular, the distinction between formal and informal station adjustments).

Each of the three case study reports describes how the juvenile justice process is being practiced in one Illinois jurisdiction. In addition, each of the three case study reports describes a juvenile case that was handled via the applicable juvenile justice process. The goals of the case study reports were to provide thorough descriptions of the juvenile justice processes and to learn the perspective of individuals involved in the processes. Data for the case study reports came primarily from three sources: (1) interviews with individuals involved in the juvenile justice processes, (2) juvenile law enforcement and court records (pertaining to the juvenile cases that were described), and (3) additional documentation pertaining to the juvenile justice processes. What follows is

a brief description of each case study report, followed by a series of statements that summarize key findings from each case study report.

A Case Study Report of a Balanced and Restorative Justice Program

As a result of the Juvenile Justice Reform Provisions, the Illinois Juvenile Court Act now has a new purpose and policy statement that is consistent with the Balanced and Restorative Justice (BARJ) philosophy (705 ILCS 405/5-101). Because the stated purpose of the Illinois Juvenile Court Act is consistent with BARJ, we opted to write a case study report on a program within the Illinois juvenile justice system that adopts the BARJ philosophy. The program that was examined via case study was a type of BARJ program known as family group conferencing. In family group conferences, juvenile offenders, their guardian(s), victims, community members, and other interested parties meet and discuss juvenile offenses. Participants state the impact that the minor's offense has had on them, then several participants (most notably victims and community members) make recommendations as to what should be included in a conference plan (i.e., a juvenile sentence). The case study report describes how the program operates, then describes a case that was handled through a family group conference.

Key Findings

- Based on comments from individuals involved in the family group conference program, little evidence was noted challenging the assertion that family group conferences make juvenile offenders accountable for their actions.

- The jurisdiction's probation department (who operates the family group conference program) only has indirect control over the content of conference plans. As a result, conference plans may not address important competency needs of young offenders. However, the conference experience (facing the victim, learning the impact of one's behavior) may help develop social competencies in young offenders.

- Anecdotal evidence from conference participants suggests that family group conferences aid in connecting minors to the community.

- The jurisdiction actively promotes their family group conference program. This could conceivably "widen the net" of the jurisdiction's juvenile justice system by involving minors in the system whose cases would otherwise be handled outside of the system (e.g., at the police station, by the minor's parents). It may also force minors deeper into the juvenile justice system. However, because the jurisdiction is located in a small, rural county, most juvenile cases, even those involving lesser offenses, typically get referred to the court system, where, pending sufficient evidence, the state's attorneys office almost always chooses to prosecute. As a result, in the jurisdiction examined, the family group conference program serves to divert young offenders from court. In larger jurisdictions (in which less serious juvenile offenses are sometimes not referred to court, in which the state's attorney's office may not prosecute cases involving lesser offenses), similar programs may "widen the net" of the juvenile justice system or force minors deeper into the system.

- Minors who participate in family conferences appear very uncomfortable. They respond to questions in a quiet, sheepish manner. They tend to apologize for the offense more than once during the conference. They tend not to object to conference conditions that are suggested. They are mildly rebuked for their behavior during the conference. However, critical statements tend to be made constructively, in a manner that condemns the action as opposed to the individual.

A Case Study Report of an Extended Jurisdiction Juvenile (EJJ) Prosecution

A number of states have passed blended sentencing laws, or laws which allow courts to impose both juvenile and adult sentences on juvenile offenders. The Juvenile Justice Reform Provisions added a new section to the Illinois Juvenile Court Act which allows a type of blended sentencing known as Extended Jurisdiction Juvenile (EJJ) prosecutions. State's attorneys may petition the court for an EJJ prosecution if the minor is 13 years of age or older and is charged with an offense that would be a felony if committed by an adult (705 ILCS 405/5-810). Minors who are found guilty in an EJJ prosecution are given both a juvenile sentence and an adult sentence. However, the adult sentence is stayed and not imposed unless the minor violates the conditions of the juvenile sentence. The intended utility of EJJ is that it will give minors who commit serious crimes a "second chance" to remain out of prison, while using the potential adult sentence as a deterrent to future criminal activity.

The case study report provides a detailed description of one of the first cases in Illinois that was prosecuted under EJJ. The case involved a minor who was sentenced under EJJ to a two year juvenile probation sentence and a five year adult prison sentence. The minor violated the conditions of the juvenile probation sentence by getting arrested for a misdemeanor offense while on juvenile probation. As a result, the minor was required to serve the five year adult prison sentence.

Key Findings

- Several of the individuals who were interviewed regarding the minor's case (including the prosecutor, the minor's public defender, the minor, the minor's mother, and the victim) believed that the EJJ sentence was fair, and provided the minor with a second chance to remain out of prison.

- Several of the individuals who were interviewed regarding the EJJ provision (including the minor, the minor's mother, the juvenile court judge who heard the case, the minor's public defender, and the minor's probation officer) were skeptical as to whether EJJ sentences would serve as a deterrent to future criminal activity.

- The section of the Illinois Juvenile Court Act that describes EJJ prosecutions states that, when minors who are sentenced under EJJ commit *any* new offense while serving the juvenile sentence, then the adult sentence *must* be imposed. There is no judicial discretion after a new offense. This means that minors who are sentenced under EJJ may be required to serve lengthy adult prison sentences after committing relatively minor offenses. The minor's mother, probation officer, and public defender criticized this aspect of the EJJ provision.

A Case Study Report Describing the Distinction Between Formal Station Adjustments and Informal Station Adjustments

Station adjustments provide juvenile police officers with the opportunity to intervene or redirect minors who have committed crimes by handling the minor's case at the police station, then releasing the minor without referring the case to court. Juvenile police officers who issue station adjustments may require minors to complete one or more conditions (e.g., community service, restitution) as part of a station adjustment plan, thereby making juveniles accountable for their actions.

The Reform Provisions made a distinction between two types of station adjustments: formal station adjustments and informal station adjustments. This distinction did not exist prior to the Reform Provisions. In order to issue an informal station adjustment, juvenile police officers need only have probable cause that the offense occurred. In order to issue a formal station adjustment, juvenile police officers must have probable cause that the offense occurred, the minor must admit to the offense, and the minor and the minor's parent(s) or guardian(s) must sign a written form stating that they agree to the conditions of the formal station adjustment. Formal station adjustments are a more rigorous, potentially more punitive type of station adjustment. The case study report describes how one Illinois law enforcement agency is handling the distinction between formal and informal station adjustments, then describes a case in which a minor was issued a formal station adjustment.

Key Findings

- The juvenile investigator who participated in the research stated that, in his opinion, there is utility to the distinction between formal and informal station adjustments. Station adjustments are being handled in the same manner as they were before the Reform Provisions. The only significant change caused by the distinction is one of nomenclature: station adjustments must now be classified as "formal" or "informal" as opposed to simply being generally classified as station adjustments.

- There were several instances when the juvenile investigator noted that, given his other responsibilities, he is limited in his ability to monitor station adjustment conditions. The description of formal station adjustments in the Illinois Juvenile Court Act suggests that formal station adjustments are intended to be a fairly rigorous response to juvenile crime. Law enforcement agencies may need support in order to implement formal station adjustments in a manner consistent with the intent underlying the new station adjustment section in the Illinois Juvenile Court Act.

II. Introduction

The Illinois General Assembly and the Governor of Illinois recently passed legislation that made a number of changes to the Illinois juvenile justice system. Public Act 90-590, or the Juvenile Justice Reform Provisions of 1998, made changes in various areas of the Illinois juvenile justice system, including law enforcement practices, juvenile sentencing, pre-adjudicatory juvenile detention, and inter-agency sharing of juvenile records. Perhaps most importantly, the Juvenile Justice Reform Provisions changed the philosophy that is to guide the Illinois juvenile justice system.

The Illinois Criminal Justice Information Authority began work on an implementation evaluation of the Juvenile Justice Reform Provisions during September of 1999. There are three components to the evaluation: (1) a statewide component, (2) a focus county component, and (3) a case study component. Because of the collective length of the three components, the evaluation is presented in two separate companion documents. The first document presents the statewide evaluation component and the focus county evaluation component. The second document (this document) presents the case study evaluation component.

The first document also provides a fairly detailed description of the changes that the Juvenile Justice Reform Provisions made to the Illinois juvenile justice system, as well as a more detailed description of the three evaluation components. As such, the first document provides a great deal of background that is not included in this document. Readers may find it useful to read this background prior to reading the case study reports in this document. However, each case study report includes enough background

information that the reader need not necessarily read the background information in the first document.

The case study evaluation component is a series of three case study reports examining three different juvenile justice processes that were changed or created by the Juvenile Justice Reform Provisions. The three juvenile justice processes were selected because they represent some of the more noteworthy and significant areas of change brought about by the Juvenile Justice Reform Provisions. The three juvenile justice processes examined via case study were: (1) a program that adopts the Balanced and Restorative Justice (BARJ) philosophy, (2) an Extended Jurisdiction Juvenile (EJJ) prosecution, and (3) station adjustments (in particular, the distinction between formal and informal station adjustments).

The first case study report will describe a program developed by a probation department in Illinois that adopts the BARJ philosophy. This case study report will include a brief description of BARJ and how the program fits with the philosophy. In addition to describing the program, the first case study report will describe a juvenile case that was handled through the program.

The second case study report will describe a juvenile case in which the minor was prosecuted under the Extended Jurisdiction Juvenile (EJJ) section provided for by the Juvenile Justice Reform Provisions and included in Illinois' Juvenile Court Act. This case study will describe the EJJ section, then describe how the minor's case proceeded.

Finally, the third case study report will describe how one law enforcement agency is handling station adjustments after the Juvenile Justice Reform Provisions were enacted. The Juvenile Justice Reform Provisions made changes to the section in the Illinois

Juvenile Court Act that describes how station adjustments are to be handled. The Illinois Juvenile Court Act now distinguishes between two types of station adjustments: formal station adjustments and informal station adjustments. No such distinction existed prior to the Juvenile Justice Reform Provisions. This case study report will describe the new station adjustment section. Then, the case study report will describe how one law enforcement agency is treating the distinction between formal and informal station adjustments. Finally, the case study report will describe how the agency handled a case in which a minor was issued a formal station adjustment.

The case studies were designed so that the reports could be detailed and descriptive. As such, there were two goals to the case study reports. The first goal was to provide thorough factual descriptions of the three juvenile justice processes and to provide thorough factual descriptions of juvenile cases involving the three juvenile justice processes. The factual descriptions are intended to provide a clear indication of how the processes are being implemented in selected jurisdictions throughout Illinois. This may aid in identifying the advantages of the new or changed processes, as well as any potential issues or difficulties surrounding their implementation.

The second goal of the case study reports was to learn the perspective of individuals who are/were involved in the process. Thus, each case study report includes not only factual description, but also the opinions of those involved in process, regarding how the process works, how the case was handled, etc. These opinions are not conveyed by exact quote, but rather by paraphrased descriptions of responses to interview questions.

Based on these goals, the emphases in the case study reports are on facts about how the process works (in the target jurisdiction) and on the overt, spoken opinions of participants involved in the process. In addition, each case study report is concluded with a section that integrates information from the report in an attempt to identify: (1) positive and negative aspects of the juvenile justice process, as practiced in the jurisdiction examined, (2) whether the goals of the process were achieved in the jurisdiction examined (per those who developed and/or drafted the Juvenile Justice Reform Provisions or per the BARJ philosophy), and (3) whether the process is useful in the jurisdiction examined (e.g., whether EJJ and the distinction between formal and informal station adjustments are useful additions to the Illinois Juvenile Court Act in the jurisdictions examined). It should be strongly emphasized that each case study report only examines one Illinois jurisdiction (albeit, in depth). Thus, the results can only be used to make claims as to positives and negatives, goal achievement, and utility in the jurisdictions examined via case study. Nonetheless, some of the issues raised in the conclusion sections may be relevant to other jurisdictions in Illinois as well.

General Method

This section provides an overview of the general methods and procedures adopted for the three case study reports. The information in this section is universal to all three case study reports. Methods and procedures that were specific to one of the three case study reports are described when the relevant case study report is introduced. Additional methodological details are also included in each case study report (e.g., who was interviewed, how long interviews took, etc.).

A single researcher on the evaluation team completed all phases involved in the completion of all three case study reports (developing case study designs, collecting data, and writing the reports). The researcher is a 30 year old white non-Hispanic male with an advanced degree in social psychology. At various points in all three case study reports, this researcher is referred to as "the primary author".

There were two main data sources for each case study: interviews with individuals involved in the juvenile justice process, and juvenile law enforcement and court records. The primary data source was interviews. All respondents were asked two types of questions: questions intending to clarify how the case proceeded and questions inquiring about respondents' thoughts and opinions.

The interviews were semi-structured. Question lists were prepared for each interview. However, the question lists were used as a reference source as opposed to a formal interview protocol. That is, the questions were not read verbatim to interview participants. Nor were the lists used to guide the exact order of questions. Moreover, the content of the interviews was not confined solely to the question lists. Instead, the interviewer assumed a conversational manner during the interviews and followed up on unanticipated responses with further inquiry.

All interview participants for each case study report were asked questions on certain topics. Appendix A shows the topic areas that were included on the question lists for each case study report, as well as several general (i.e., not verbatim) example questions for each topic area.

The secondary data source was juvenile law enforcement and court records. For each type of case study, we examined all available records on the minor whose case was

being described. The records were used to provide additional information on how the case proceeded, and to clarify information obtained from interviews.

There are several instances when informal observations were made (and recorded on field notes, etc.) during the course of data collection. These informal observations are used sparingly throughout the case study reports, and only used when it was believed they would contribute to the reader's understanding of the process. The case study reports do not include formal observation measures. Nor were interview responses analyzed for any purpose other than to note the overt, verbal content of responses.

Finally, throughout the reports, very few attempts were made to interject subjective opinions about aspects of the process. The organization and content of the case study reports, as well as conclusions drawn in the final section of each case study report, were likely influenced by the author's experiences and background. However, attempts were made to confine the report to the "story" being told by the data.

III. A Case Study Report of a Balanced and Restorative Justice Program

Balanced and Restorative Justice

As a result of the Juvenile Justice Reform Provisions, Illinois' Juvenile Court Act now has a new purpose and policy statement. The new purpose and policy statement is consistent with the Balanced and Restorative Justice (BARJ) philosophy (705 ILCS 405/5-101). The BARJ philosophy holds that the juvenile justice system should strike an equitable "balance" between the needs of juvenile offenders, the needs of victims, and the needs of the community. Consistent with this, there are three basic goals of BARJ: (1) to develop competencies and skills in minors, (2) to hold juveniles accountable to the victim and the community for their actions, and (3) to ensure community safety. The purpose

and policy statement of the Illinois Juvenile Court Act adopts these three basic goals. For example, the General Assembly declared that three of the purposes of the Illinois Juvenile Court Act are to: (1) provide an individualized assessment of each alleged and adjudicated delinquent juvenile, in order to rehabilitate and to prevent further delinquent behavior through the development of competency in the juvenile offender, (2) hold each juvenile directly accountable for his or her acts, and (3) protect citizens from juvenile crime (705 ILCS 405/5-101 (1) (a-c)).

In addition, the BARJ philosophy holds that each juvenile offense causes harm to both the victim and the community. It is the responsibility of juvenile offenders to repair the harm they have caused, thereby "restoring" the victim and community to pre-offense levels of well-being. This restoration of well-being may be as manifest as having minors pay for damages they have caused or return items they have stolen. However, the BARJ philosophy also holds that another component of restoration is providing the victim and the community with the opportunity to be directly involved in the process of repairing the harm caused by the minor. This direct involvement may empower the victim and the community, lend itself to a greater sense that justice has been served, and, perhaps, restore the victim and the community to pre-offense levels of psychological well-being. Moreover, the inclusion of the victim and the community in the reparation process may benefit minors by providing them with feelings of inclusion in the community. An argument of BARJ proponents is that minors who feel connected to the community may be less likely to commit crimes.

The purpose and policy statement of the Illinois Juvenile Court Act does not explicitly state that victims and communities should be involved in the juvenile justice

process. However, it does encourage jurisdictions to "provide programs and services that are community-based and that are in close proximity to the minor's home" (705 ILCS 405/5-101 (2) (d)). Such programs are apt to involve the local community in the lives of minors.

In addition, the Illinois Juvenile Court Act includes a section on juvenile intervention that provides guidelines and procedures for various intervention options that communities or juvenile courts may consider adopting (Article V, Part 3). One type of intervention program encouraged by the Illinois Juvenile Court Act is community mediation. Juvenile offenders who participate in community mediation programs face a panel of community members. The panel attempts to make juvenile offenders aware of the impact that their actions have had on their families, the victim, and the community. Thus, community mediation programs as described in the Illinois Juvenile Court Act are consistent with the restorative component of BARJ.

Program Selection and Case Selection

Because the stated purpose of the Illinois Juvenile Court Act is consistent with BARJ, a decision was made to write a case study report on a program within the Illinois juvenile justice system that adopts the BARJ philosophy. Moreover, because one of the more interesting and novel aspects of the BARJ philosophy is that it encourages the direct involvement of the victim and the community in the juvenile justice system, a decision was made to examine a program that directly involved victims and/or the community. The intent was to describe the program, as well as a juvenile case that was handled by the program.

Prior to the time this report was being written, the evaluation team became aware that an Illinois county was developing a type of BARJ program known as family group conferencing. There are consistencies between family group conferences and the community mediation programs that are encouraged by the Illinois Juvenile Court Act. Specifically, juvenile offenders who participate in family group conferences directly face the community.

The point of departure between family group conferences and community mediation is that, in family group conferences, the victim and the juvenile offender's guardian(s) are directly involved in the process. In family group conferences, juvenile offenders, their guardians, victims, community members, and other interested parties (e.g., the police officer who arrested the minor, individuals who attend in support of the offender or the victim) meet and discuss the offense. All participants (starting with the victim) are asked to state the impact that the juvenile offender's actions have had on them. The victim, individuals supporting the victim, community members, the arresting officer, and the offender's guardian(s) are allowed to make recommendations as to what should be included in a conference plan (i.e., sentence). Family group conferences are described in more detail below.

The evaluation team became aware of the county's prospective family group conferencing program through a presentation given by the program developer. The program was being developed by the county's chief probation officer and was to be run by the probation department. During the presentation, the chief probation officer explicitly stated that the county's family group conference program was based on the BARJ philosophy. The chief probation officer's description of the program indicated that

the program's goals were identical to the goals of the BARJ philosophy. The program was to primarily target juvenile offenders, but may be used for adult cases as well.

Shortly after preliminary work on the Juvenile Justice Reform Provisions evaluation had begun, a member of the evaluation team contacted the chief probation officer and the county's juvenile court judge and inquired as to whether the program had been developed and whether we could describe the family group conference program in detail, and conduct an individual case study examining a juvenile case resolved by a conference. The program was in full operation and both the chief probation officer and juvenile court judge granted us permission to write a program description and a case study.

The county has been designated a rural county by the U.S. Census Bureau. According to the U.S. Census Bureau, in 1999 the county had an estimated population between 10,000 and 15,000. The county is comprised of two small cities and several smaller villages. Much of the county's population is located in the two cities. In 1999, approximately 99% of the county's population was classified as white non-Hispanic by the U.S. Census Bureau.

It was requested that the probation department make the evaluation team aware of the next family group conference involving a juvenile offender for which they felt comfortable allowing us to contact conference participants and attend the conference. Thus, the probation department was allowed autonomy over case selection. A case study was not conducted on the first conference involving a juvenile offender that was held after the request to the probation department. The case was quite complex and, as a result, the conference was difficult to organize. It was agreed that the research may

interfere with the conference. However, a case study was conducted on the next conference involving a juvenile offender. The conference involved an incident in which a 13 year old male was arrested for stealing cigarettes from a local convenience store and charged with Retail Theft (720 ILCS 5/16 A-3).

In addition to describing the minor's conference, the next section of the report provides a detailed description of the county's family group conference program. Prior to proceeding with the case study report, members of the evaluation team met with the chief probation officer and a probation officer whose primary duties include organizing and facilitating family group conferences (henceforth referred to as the BARJ probation officer) to learn more about the county's program. Based on information obtained during this meeting, it was determined that the family group conference process involves at least four discernible stages: case selection, conference organization, the conference itself, and monitoring the conference plan. The program description in the next section provides details on each of these four stages in the process. The program description also includes a section on program inception and development. The next section describes the methods for the program description.

Method – Program Description

For the description of the family group conference program, interviews were requested from the chief probation officer, the BARJ probation officer, and the county state's attorney. Each of these individuals consented to be interviewed. All three interviews were conducted over the telephone and were audiotaped. Each interview session lasted between 20 and 30 minutes.

The chief probation officer was asked about program development and collaboration on the program with other criminal justice agencies in the county (especially collaboration with the state's attorney's office). The BARJ probation officer was interviewed, in two interview sessions, about case selection, conference organization, conference facilitation, and monitoring conference plans. The state's attorney was asked about program development, collaboration with the probation department, and case selection.

Question lists for the interviews (see Appendix A) were developed primarily based on general information obtained during the initial meeting with the chief probation officer and BARJ probation officer. In addition, the primary author observed two family group conferences prior to conducting the case study. These observations aided in developing questions pertaining to conference facilitation.

In addition to the interviews, the probation department provided the evaluation team with two documents: (1) a list of the factors they consider when screening juvenile cases for conferences, and (2) a sample conference script. These documents served as additional data sources for the program description.

The probation department has begun to distribute surveys to conference participants after the offender has completed the conference plan or the case has been referred to court. For the most part, the probation department surveys asked conference participants questions regarding their satisfaction with the conference process and their treatment and comfort level during the conference process. The probation department agreed to provide the evaluation team with results from surveys that were returned to the probation department. The probation department has received nine completed surveys

from approximately three different conferences: three from community members, three from offender's guardians, two from victims, and one from a police officer. The probation department does not distribute surveys to offenders (only to their parent(s) or guardian(s)). Responses to these surveys were incorporated into the program description.

The probation department also agreed to allow the evaluation team to calculate descriptive statistics on the family group conferences by providing some basic information from the case files of every offender whose case had been resolved by a family group conference. Table 1 shows these descriptive statistics. Table 1 shows that, since the program's inception (in May, 1999) the county has held 17 conferences involving 26 offenders. Most of the offenders who have participated in a family group conference were young (23 of the offenders who participated in a family group conference were age 19 or under). However, only half (13) of the offenders who participated in a family group conference were juveniles per the Illinois definition (i.e., between the ages of 5 and 16). All of the offenders who participated in family group conferences were white non-Hispanic.

Data on offender age indicates that the county's family group conference program targets *young* offenders as opposed to *juvenile* offenders. The BARJ probation officer reported that the family group conference process is identical for all young offenders. There are two differences between the process for younger offenders (approximately age 10-19) and older offenders. First, for older offenders, their parents are not required to be involved in the conference process (although the offender may choose to bring his or her parent(s)). Second, the case selection process (or the process by which it is determined

that older offenders will have their cases resolved by a family group conference) differs for older offenders. This will be described in more detail in the next section.

Table 1: Descriptive Statistics on the Family Group Conference Program

Variable	Total
# of Conferences Held	
Since Program Inception	17
In 1999	7
In 2000	8
In 2001	2
# of Offenders Participating	
Since Program Inception	26
In 1999	13
In 2000	11
In 2001	2
Offender Gender	
Male	22
Female	4
Offender Age	
10	2
11	1
13	4
15	1
16	5
17	7
18	2
19	1
24	1
40	1
43	1

Table 1 (cont.): Descriptive Statistics on the Family Group Conference Program

Variable	Total
Offense (# of Offenders)	
Retail Theft (Misdemeanor Amount)	10
Criminal Damage to Property (Over $300)	5
Theft (Under $300)	3
Domestic Battery	2
Aggravated Assault	1
Battery	1
Criminal Trespass to Property	1
Forgery	1
Telephone Harassment	1
Theft (Over $300)	1
Underage Consumption of Alcohol	1
Conference Conditions (# of Offenders)	
Restitution	18
Apology (Verbal or Written)	15
Agree to Remain Crime Free and/or Not Commit Offense Again	11
Community Service	9
Act as Role Model for Friends, Others	8
Improve Academic Performance / Stay in School / Finish School	8
Complete Work and/or Chores at Home	4
Individual Counseling	4
Make Up With Victim and/or Maintain Friendly Relations With Victim	4
Alcoholics Anonymous	3
Avoid Victim and/or Place of Offense	3
Do Not Drink Alcohol or Submit to Drug/Alcohol Screens	3
Anger Management Counseling	2
Seek Support From Community	2
Write Report on Offense and/or Impact of Conference	2
Other	8

Program Description

Case Selection

When a law enforcement agency in the county arrests a young offender (approximately age 19 or younger), then refers the case to the court system, both the probation department and state's attorney's office receive copies of the arrest report. The chief probation officer and the BARJ probation officer examine each police report involving a young offender and determine whether the case is appropriate for a family group conference. The probation submits their recommendation as to how the case should be resolved to the state's attorney's office (i.e., the probation department examines the arrest report before the state's attorney's office). After receiving the probation department recommendation, the state's attorney's office then examines the arrest report and either accepts or rejects the probation department's request. The final decision on how to handle cases involving young offenders is made by the state's attorney's office, after considering the recommendation of the probation department.

Because the county is a small, rural county, the state's attorney's office does not have distinct adult and juvenile divisions. The same state's attorneys handle both juvenile and adult cases. The probation department does not receive arrest reports for incidents involving older offenders (approximately age 20 or older). The family group conference program primarily targets younger offenders. However, when the state's attorney's office receives a case involving an older offender that they believe may be appropriate for a family group conference, they contact the probation department and discuss the case, whereupon it may be decided to resolve the case through a family group conference.

The state's attorney noted that, when the program was introduced to him, his initial thought was that it would primarily be appropriate for first or second time young offenders who commit misdemeanor offenses. However, he now believes that conferences can be appropriate for older offenders. Table 1 shows that three conferences have been held for older offenders (ages 20 or older). It is perhaps interesting that the three oldest offenders who have participated in family group conferences all committed violent offenses (battery, domestic battery, and aggravated assault).

The BARJ probation officer stated that, when screening cases involving young offenders for conferences, the probation department would like to resolve as many cases as possible through family group conferences. This is perhaps testament to the extent that the probation department endorses the BARJ philosophy. The probation department has developed a list of minimum requirements that must be fulfilled in order to conduct a conference, as well as a list of discretionary factors that they may consider. This list is shown in Table 2. Consistent with the goal of conducting as many conferences for young offenders as possible, the requirements and discretionary factors tend to be general enough to allow conferences for many types of cases.

Table 2: Minimum Requirements and Discretionary Factors for Offender Participation in Family Group Conferences

Minimum Requirements

1. The referral is not inconsistent with the protection of society.
2. The referral is considered appropriate having regard to the interests of the victim, the offender, and the community.
3. The offender accepts responsibility for his actions and shows an apparent ability to learn from a restorative experience, and follow through with an agreement.
4. The offender has been informed of, and consents freely and fully, to participation in the program.
5. There is sufficient evidence to proceed.
6. Prosecution of the offense is not barred by law.

Discretionary Factors

1. The cooperation of the offender.
2. The willingness of the victim to participate in the process.
3. The desire and need on the part of the community to achieve a restorative result.
4. The motive behind the commission of the offense.
5. The seriousness of the offense and the level of participation of the offender in the offense, including the level of planning and deliberation prior to the offense.
6. The relationship of the victim and offender prior to the incident, and the possible continued relationship between them in the future.
7. The potential for an agreement that would be meaningful to the victim (restitution, actual repairs, etc.).
8. The harm done to the victim.
9. Whether the offender has been referred to a similar program in recent years.
10. Whether any government policy conflicts with a restorative justice referral.
11. Such other reasonable factors about the offense, offender, victim, and community which may be deemed to be exceptional and worthy of consideration.

Nonetheless, at the initial screening stage, the probation department does consider two specific factors: the offender's criminal history record and the nature of the offense. The BARJ probation officer stated that the probation department attempts to conduct a conference for as many cases as possible involving first time young offenders who committed less serious offenses. The probation department does not have any firm criteria for what constitutes a less serious offense. Decisions are made subjectively on a case by case basis.

However, for the most part, conferences have been held for young offenders who committed misdemeanor offenses. Table 1 shows the offenses committed by individuals who have participated in family group conferences. Of the offenses shown in Table 1, most are Class A misdemeanors.[1] Typical offenses include retail theft, criminal damage to property, and theft. However, Table 1 shows that conferences have been held for some felony cases. Specifically, conferences have been held for forgery (forging a signature on a check for a small amount, a Class 3 felony), criminal damage to property over $300 (a Class 4 felony when not committed at a school or place of worship), and theft over $300 (a Class 3 felony when property is not stolen directly from a person).

Despite the goal of the probation department to hold conferences for as many cases as possible involving young offenders who commit lesser offenses, cases involving certain offenses are uniformly excluded from family group conferences. Specifically, conferences are not held for drug or alcohol-related offenses. Table 1 shows that only one offender participated in a conference after having committed an alcohol or drug related offense (underage alcohol consumption). Moreover, the offender in this conference also committed another offense. Had the offender only been arrested for underage drinking, a conference would not have been held.

In the BARJ probation officer's opinion, this is a limitation of family group conferences. Many of the juvenile arrests in the county are for underage alcohol consumption or possession of cannabis. However, in her opinion, the lack of an easily

[1] For the purpose of sentencing, crimes in Illinois are classified according to their severity, using the following classification scheme (ranging from most severe to least severe): First degree murder (a separate class), Class X felony, Class 1 felony, Class 2 felony, Class 3 felony, Class 4 felony, Class A misdemeanor, Class B misdemeanor, Class C misdemeanor, Petty offenses and unclassified business offenses (730 ILCS 5/5-5-1).

identifiable, direct victim in such offenses makes family group conferences less effective. Nonetheless, if alcohol and/or drugs are identified as factors that led to the individual committing another offense, then the issue may be discussed during the conference (Table 1 shows that six conference plans made some mention of alcohol use and/or alcohol treatment). Moreover, minors who commit alcohol or drug related offenses may be required to attend a victim impact panel (e.g., comprised of victims of drunk drivers, former drug abusers, etc.). Thus, these minors learn the victim's perspective.

The county also has a second court diversion program for young offenders in which the offender signs an informal contract developed by the probation department (akin to a conference plan, but not decided upon by victims or community members) and is referred to court if he or she fails to abide by the contract. This diversion program is used infrequently. In fact, the BARJ probation officer reported that, since the inception of the family group conference program, the diversion program has only been used three times (and has never been used for drug or alcohol related offenses). One case involved a young offender who had previously participated in a family group conference. His father called the police after the minor stole and forged a check from his checkbook. Another case transferred to the county from another jurisdiction (and involved a retail theft). The probation department was concerned that, because they had not established rapport with the state's attorney from the other jurisdiction, they could not adequately ensure that conference proceedings would remain confidential. Finally, the final other case involved an offense committed by two young men, who were arrested for contributing to the delinquency of a minor. In all three cases, the diversion plans tended to focus on following parental rules and avoiding the situations that led to the arrest.

After the initial screening for a family group conference, the probation department attaches a memorandum to each arrest report. The memorandum states the probation department's recommendation: that the case be dismissed, resolved by a family group conference, referred to court, or resolved by the diversion program. In general, the probation department dismisses cases involving lesser offenses only on evidentiary grounds. That is, for the most part, if the arrest report suggests that there is probable cause (i.e., a reasonable ground in fact and circumstance) to believe that the young offender committed a less serious offense, the probation department will recommend a family group conference. If there is probable cause and the offense is deemed to be "too serious" for a conference, then the probation department will recommend that the case be referred to court. The BARJ probation officer estimated that, including cases involving drug or alcohol related offenses, she recommends family group conferences for about 20% to 30% of all cases involving young offenders.

The arrest reports and attached memorandums are sent to the state's attorney's office. The state's attorney's office can reject the probation department's recommendation. In other words, the state's attorney's office can prosecute or dismiss cases that the probation department would have preferred to resolve through a family group conference.

On the surface, it would seem that the state's attorney should have little reason to dismiss a case that the probation department would like to resolve through a family group conference (provided they concur that probable cause exists to believe that the young offender committed the offense). After all, the goal of prosecutors is to make offenders accountable for their actions. If the probation department chooses to organize a

conference for a young offender whose case the state's attorney's office would otherwise dismiss, the young offender would be made accountable with little or no effort from the state's attorney's office. However, by allowing a conference to be held for a young offender whose case would otherwise be dismissed, the state's attorney's office is committing themselves to prosecuting, should the young offender and/or his or her guardian(s) prefer not to participate in a conference or should the young offender fail to abide by his or her conference conditions. Young offenders and their guardian(s) who are asked to participate in a conference are told that the young offender's case will be referred to court, should they not participate in a conference. Moreover, young offenders are told that their case will be referred back to court if they fail to abide by their conference conditions. Thus, because young offenders and their guardians are explicitly told that their decision and the young offender's compliance will determine whether or not the young offender must appear in court, the state's attorney's office still must consider whether the case warrants prosecution.

On the other hand, the state's attorney's office may also choose to prosecute cases for which the probation department recommends a family group conference. The state's attorney noted that he would reject the probation department's recommendation to hold a conference if the case involves a serious, violent offense. When the state's attorney's office agrees with the probation department's recommendation that a case is appropriate for a conference, the office is in effect granting the probation department permission to approach the victim regarding conference participation. For some cases, the offense may have caused the victim to be distressed. In particular, victims of violent offenses may be distressed about the offense. Approaching the victim about a conference may possibly

add to the victim's distress. On the other hand, the family group conference process may also empower victims by allowing them to decide if they want to face the young offender.

The state's attorney stated that he appreciates being able to empower victims by providing them with the option of participating in a conference. However, he also stated that he is very cautious about allowing the BARJ probation officer to approach victims of violent offenses because of the distress that it may cause. In lieu of the offense involving a violent, potentially distressing incident, there may be little reason for the state's attorney to prosecute cases for which the probation department recommends a family group conference. The victim is empowered by having the option of participating in a conference. If a victim is not comfortable facing the young offender, then the case will be referred back to the state's attorney's office (and, thus, the case can still be prosecuted).

The state's attorney and BARJ probation officer both noted that, to date, the state's attorney's office had not rejected or even questioned any probation department recommendation. The state's attorney reported that he has been in complete agreement with the probation department on every case that the department believed would be appropriate for a conference.

The county is also exploring the possibility of using family group conferences as a sentencing option in court. In other words, requiring offenders who are found guilty in court to attend a family group conference as all or part of their sentence. To date, this has never occurred. However, in one case, the victim agreed to participate in a family group conference, but also wanted a young offender to have a court record. The conference was

held, then the case was heard in court. The judge upheld the conditions determined in the conference plan and tacked on additional conditions.

Conference Organization

After the state's attorney's office accepts the probation department's recommendation that a conference be held for a particular case, then the BARJ probation officer attempts to contact potential participants. The conference is voluntary for all participants.

The BARJ probation officer always begins the organization process by calling the offender's home to elicit the participation of the offender and his or her guardian(s) (if the case involves a young offender). The offender and his or her guardian(s) are always approached about the conference before the victim. This eliminates the possibility that a victim will be disappointed if the offender decides not to participate. The BARJ probation officer speaks to the guardian(s) first, then to the offender. She reported that she states the charges against the offender, then provides the guardian(s) and the offender with the option of participating in a family group conference. She then proceeds to describe the conferences in detail, including the goals of the conference, what occurs at a conference and who attends the conference. It is also emphasized that, should the offender and/or his or her guardian(s) choose not to participate in a family group conference, then the case will be referred to court.

Participating in the conference can be advantageous to the offender. In particular, if the offender participates in a family group conference and completes his or her conference plan, then the offense will not appear on the offender's criminal history record. Moreover, by participating in a family group conference, the offender and his or

her guardian(s) can have input into the offender's sentence that they would not have if the case were referred to court. These advantages are also emphasized by the BARJ probation officer during the initial telephone conversation.

If the offender and his or her guardian(s) choose to participate in the conference, then the BARJ probation officer contacts the victim and reiterates much of the same information that she had communicated to the offender and the guardian(s). In addition, while emphasizing that participation is voluntary, she also emphasizes how participating in the conference can be advantageous to the victim. Specifically, she emphasizes that the victim can express his or her concerns about the crime directly to the offender, and can help determine the offender's sentence. She also points out to the victim that the juvenile justice system has traditionally not provided victims with this opportunity.

Participating in a family group conference can be an emotional experience. The BARJ probation officer noted that there have been conferences in which guardians have become distraught over the offense or somewhat upset at a community member who they believed was responding too harshly to the offense. She also stated that victims sometimes become emotional. Thus, another purpose of the initial contacts with guardians, offenders, and victims is to obtain information which may help ensure that the conference atmosphere will be calm, constructive, and, to the extent possible, supportive. She does this primarily by asking questions intended to identify issues that may arise during the conference. If the guardians, the offender, and the victim all agree to participate in the conference, then she follows up the initial telephone conversation with the guardians and offender by visiting their home. During this visit, she discusses the

upcoming conference in more detail, and completes a social history on the offender. This helps identify potential causal factors for the offense.

In order to participate in the conference, the offender must admit to the offense. This is clearly emphasized to the offender and his or her guardian(s) during the home visit. Although the offender must openly admit to having committed the offense in order to participate in the conference, he or she is not required to sign a statement admitting to the offense. Verbal admission is sufficient. The probation department is cautious about the nature of the admission because, should offenders fail to abide by their conference plan, then their case is referred to court. Offenders have the right to plead not guilty in court, even though they had previously admitted to the offense.

The prior admission and/or the content of the family group conference could conceivably be used against the offender in subsequent court proceedings. However, the state's attorney has agreed not to subpoena conference participants or facilitators to testify against a offender whose case is referred to court. Consistent with this, the content of the conference is to remain confidential. Conference participants sign a form stating that they will not reveal conference proceedings.

The judge is made aware of cases in which the offender has been referred to court after failing to abide by conference conditions. However, if the offender pleads not guilty, then the judge may not use the prior admission when considering his decision.

The BARJ probation officer may also visit the victim in his or her home to discuss the conference in more detail. However, she stated that, for the most part, pre-conference contact with victims has occurred over the telephone. Irrespective of whether such a visit occurs, the BARJ probation officer attempts to identify in advance what the

victim would like to request for the offender's sentence. If necessary, she provides the guardian(s) and the offender with this information. Again, the intent of this exchange of information is to keep the conference atmosphere calm. The BARJ probation officer would like to eliminate surprises (and hence, potentially, anger) that may arise during the conference. For example, she does not want guardians or offenders caught off guard by a request for a large restitution amount.

The BARJ probation officer was asked how willing offenders, their guardian(s), and victims have been to participate in conferences. She stated that, when the program began, she thought that victims may not be willing to participate. However, in her experience, victims have been quite willing to participate. In fact, she could only recall two instances when an offender, guardian, or victim was given the opportunity to participate in a conference, but preferred that the matter be referred to court.

In one instance, the offender and victim's families knew each other and the offender's guardian feared that the conference would be too emotional. The other instance was the case referred to above, in which the victim participated in a conference, but also wanted the offender to have a court record. The BARJ probation officer reported that, in this case, the victims also knew the offender. In this case, the offender was referred to court and sentenced to juvenile probation (with the conference plan and court disposition as his or her probation conditions).

Remaining conference participants are contacted after guardians, offenders, and victims have agreed to participate. Remaining participants include support group members, at least one community representative, and the officer who arrested the minor.

Both the offender and the victim may bring a support group to the conference. Support group members may be anyone the offender or victim chooses, but are often relatives, neighbors, or friends. There are no limits to the number of support group members that the offender or the victim may bring to the conference. To the extent possible, the BARJ probation officer attempts to speak to each support group member prior to the conference. The primary author observed that offenders tend to bring no support except for their parents and that victims also tend to bring few support members.

The BARJ probation officer also contacts the police officer who arrested the minor to request his or her participation and, if necessary, to explain the conference. The extent to which she explains the conference is contingent upon how aware the officer is of the program. The BARJ probation officer noted that there is a place on arrest reports for officers to make recommendations as to how a case should be handled. She has begun to notice that officers are specifically recommending conferences. She also noted that officers have stopped her at the court building to mention that they recently handled a case that may be appropriate for a conference. However, she also stated that police officers vary in their initial response to the conferences. In her opinion, some officers may initially believe that the conference is a lenient response to criminal offenses. However, she stated that officers tend to become advocates of the program after they attend a conference.

The only additional participants for the BARJ probation officer to contact are the community representatives. When the program was being planned, the chief probation officer and juvenile court judge spoke at community organizations to introduce the community to BARJ and to solicit volunteers for the program. They were initially able to

obtain approximately 20 volunteers. The probation department brought in a BARJ expert to train probation staff and the volunteers on how to facilitate conferences. However, for the most part, probation staff have facilitated conferences and the trained volunteers have served as community representatives. The trained community volunteers felt more comfortable acting as community representatives. The community volunteers felt this way because the program was so new and, hence, there were no experienced facilitators from whom the volunteers could seek advice. However, community volunteers continued to serve as community representatives, even after probation staff gained more experience facilitating conferences.

The BARJ probation officer attempts to include at least one community representative in each conference. She often contacts the trained volunteers to act as community representatives. The primary factor that she considers when determining which volunteers to contact are whether their vocation or interests may make them appropriate for the conference. For example, a volunteer who owns a business may be contacted if the case involves retail theft. Or, a volunteer who resides near the offender or attends the same church as the offender may be contacted.

However, there are instances when the BARJ probation officer simply contacts trained volunteers who are available, based on their schedules. Such was the case at the two observation conferences the primary author attended. The volunteers at these conferences seemed to use their BARJ training as a guide for their role as a community member. As an example, one volunteer suggested that the offenders attempt to act as role models for younger minors in the community (perhaps in an attempt to make the minors

recognize that they are part of a larger community and they ought to do their part to support the community).

If time and/or the situation permits, the BARJ probation officer may attempt to contact a community member that has not volunteered for the conferences, but instead may potentially be interested in the conference, based on the nature of the offense. She also noted that several high school students who are members of a crime prevention organization have become aware of the conferences and have started to volunteer. The high school students are excluded from conferences involving offenders who attend the same school.

Overall, in addition to the trained volunteers, the probation department has found approximately ten additional volunteers (including the high school students). These volunteers have not been trained as facilitators. They are provided with background about the conferences and have been asked to represent the community at conferences (either as the sole community representative or along with another community member).

The Conference

The victim is allowed to choose the location of the conference. The victim makes this choice based on where he or she resides and/or works in the county. The probation department has arranged for conferences to be held in the probation department, church halls, public buildings, and a retirement center.

Conferences are generally conducted by two facilitators. Probation department staff generally facilitate the conferences, although the trained community volunteers have facilitated on occasion. Facilitators arrive early to the conference location to arrange the physical environment. Seats are placed in a circle and conference participants are each

assigned a specific seat (name cards are placed on the chairs). Typically, the offender, his or her guardian(s), and the offender's support group are seated directly across from the victim and the victim's support group. The offender's side and the victim's side are generally separated by the co-facilitators, community members, and the arresting officer, such that no one on the offender's side is seated directly next to someone from the victim's side. The BARJ probation officer stated that the circular seating arrangement is used so that everyone remains engaged in the conference process and so that the offender will have to directly face the victim. The offender's side and the victim's side are separated as a precautionary measure, in case either side gets angry or emotional as a result of the other side's comments or behavior.

Upon arriving, each participant is asked to sign a confidentiality agreement stating that he or she will not reveal the names of conference participants or the content of the conference. Participants are then seated by one of the co-facilitators.

The co-facilitators use a script to facilitate the conference. The script provides the language that the facilitators use when speaking at various points during the conference. The script also includes the questions that the facilitators direct to participants, as well as the order in which the questions are asked.

The script was developed by one of the agencies that provided training to the probation department. The BARJ probation officer stated that the script has worked well and has allowed facilitators to efficiently direct conferences. The script allows the facilitator to allocate speaking turns. According to the BARJ probation officer, this makes participants more comfortable with the process because they know when they will be called upon to participate. Consistent with this, the seating arrangement is made

consistent with speaking turn allocations (e.g., turns may be allocated in a clockwise sequence around the circle), such that participants can see when it will be their turn to speak. However, the BARJ probation officer also noted that the script allows enough flexibility for there to be direct, unstructured exchanges between participants.

The conference begins with the offender describing the offense. This is tantamount to a verbal admission by the offender. The offender is then asked to state his or her thoughts since committing the offense, and to state how others were affected by his or her actions. The BARJ probation officer noted that the offenders often also apologize to the victims during this initial statement. During the home visit with the offender and his or her guardian(s), the BARJ probation officer mentions that the conference will provide a good opportunity for the offender to apologize to the victim. Thus, the apologies are not entirely unsolicited.

Then, the victim, individuals on the victim's side (supporters, community members, the arresting officer), the offender's support group, and the offender's guardian(s), in that order, are each provided with the opportunity to state how the offense has impacted them and what general issues they would like to see addressed in the conference. The order of speaking turns (by allowing the victim the opportunity to speak first) seems to subtly place more emphasis on repairing the harm done to the victim.

After every participant has spoken, the offender is given an opportunity to respond. The offender can conceivably defend himself or counter comments made by the victim's side or by community members during this speaking turn. However, the BARJ probation officer stated that offenders do not use this speaking turn as an opportunity to defend themselves. It may be difficult for young offenders to speak openly after several

adults have spoken negatively of their actions. Moreover, offenders tend to only bring their parents for support. The parents' responses tend to be similar in content to those of the victim's side and the community members. The BARJ probation officer noted that, at some conferences, parents treat the offender more harshly than the victim(s) or community member(s).

Thus, the young offenders seemed to perceive this speaking turn as an opportunity to apologize and/or appear apologetic. In fact, the young offender in the case study conference did apologize for his actions during this response. The BARJ probation officer stated that young offenders often apologize during this speaking turn, even if they have apologized earlier in the conference.

Next, the victim, followed by the victim's support group, the community member(s), the police officer, and the guardian(s) (generally in that order) are asked to state what they would like the offender to do in order to repair the harm that he or she has done. These suggestions become, in effect, the offender's disposition or components of a conference plan. Table 1 shows conference plan conditions (by number of offenders receiving the condition) for the 17 family group conferences held to date. Typical plan conditions include restitution, community service, counseling (alcohol, individual, or anger management), and commitments to improve school performance or attend school. Other plan elements are more abstract (i.e., more difficult to directly monitor) and are intended to extend to after the offender is no longer involved in the criminal justice system. For example, the offender may be encouraged to act as a role model for friends and/or younger children, asked to avoid future criminal behavior, or asked to seek support from the community as needed. The offender is given dates by which he or she

must complete individual plan elements and the plan as a whole. All offenders are also informed verbally that their case will be referred to court if they commit a new offense prior to the date by which their conference plan must be completed.

The co-facilitator may ask the participant who made each suggestion additional questions. The additional questions are intended to elicit more detail about the suggestion (e.g., number of hours of community service, how long the offender is given to pay the restitution). The co-facilitators also monitor the suggestions to ensure that they are realistic and fair to both sides. The details of some suggestions may be slightly modified, but an attempt is made to incorporate each core suggestion into the conference plan. The co-facilitators may provide their thoughts as to how the details of a suggestion can be modified, but always refer back to the participant who made the suggestion.

The BARJ probation officer was asked whether the facilitator ever implicitly or explicitly suggests conference plans or raises additional issues based on information obtained from the social history report completed on the offender. She stated that there have been times when she has wanted to raise issues, but did not because it may compromise her role as a neutral facilitator. Instead, she may "plant seeds" in the heads of offender's guardians, victims, etc., by informing them of additional issues prior to the conference. Moreover, she stated that victims have explicitly asked her what other victims have recommended as conference conditions. In this respect, the probation department has some implicit control over the outcome, but outside the context of the conference proceedings themselves.

After each suggestion is finalized, the offender is asked whether he or she thinks the suggestion is fair. The BARJ probation officer noted that the offender typically

accepts all proposed conference conditions. She also stated that the offender's parents typically do not have any objections to proposed conditions. The BARJ probation officer continued by stating that, if offenders or their parents do not accept the proposed conference condition, it is not because they object to the condition itself (e.g., because the condition is too stringent). Instead, they accept the condition, but object because the offender will not be able to fulfill the condition (because of the minor's work schedule, other legitimate commitments, etc.). In such instances, an attempt is made to keep the condition, but work around the offender's schedule. Overall, it seems difficult for offenders to speak openly at this point in the conference and, on the whole, parents' responses tend to be similar to those of the victim's side and the community.

One of the co-facilitators writes down each finalized suggestion that has been accepted by the offender, then reads the completed plan after all suggestions have been made. If no participant has any further comments, then the co-facilitators leave the room to write the suggestions onto a conference plan form that is to be signed by the offender, the offender's guardian(s), and the victim. Conference participants are invited to have some refreshments while the plan is being written. Once the plan is written and the necessary parties have signed the form, then participants are free to leave.

The BARJ probation officer stated that the co-facilitators purposely stay out of the conference room for a longer period of time than it takes to write the conference plan. This period of time is intended to "force" casual conversation between the offender's side and the victim's side. In part, the purpose of forcing the conversation is so that the offender will receive some positive comments from other participants. On the whole, the conference results in the offender being mildly rebuked for his or her behavior. The

conversation provides an opportunity for the offender to interact with the other participants on a more friendly, personal basis, thereby insuring that the offender does not feel stigmatized from the community as a result of his or her offense. The conversation is a small gesture, intended to work towards the community building goals of BARJ.

However, the primary author noted that very little conversation tends to occur during this time period. Nonetheless, most participants remained in the conference room for a period of time after signing the conference plan. During this time, the co-facilitators were able to engage participants in friendly conversation after they returned to the conference room.

The BARJ probation officer stated that participants have been satisfied with the conferences. The nine surveys received by the probation department are consistent with the BARJ probation officer's observation regarding participant satisfaction. All nine respondents reported that the conference properly addressed the offense, that justice was served, and that the conference was preferable to having the situation handled by the court system. All victims, community members, and the police officer were satisfied with the conference outcome and all but one of these respondents reported that they feel more connected to the community as a result of having participated in the conference. The only unfavorable survey response came from a guardian who emphasized that the conferences are a good idea, but felt that the victims were angry and unreasonable. Overall, initial survey results corroborate the BARJ probation officer's impression that participants have been satisfied with the conferences. However, the probation department does not distribute surveys to offenders (only to their guardians). Moreover,

the probation department mails surveys to conference participants shortly after the conference has occurred. Satisfied participants may be more likely to return the surveys.

Monitoring Conference Conditions

The BARJ probation officer is primarily responsible for monitoring conference conditions. If the offender does not complete the conditions in his or her conference plan, then the case is referred back to the state's attorney's office (where, because the offender had been told that his or her case would be referred back to court should he or she fail to abide by the conference conditions, a decision will be made to refer the offender to court). The BARJ probation officer reported that there have been only two cases in which offenders who had participated in a conference subsequently had their cases referred back to court. In both cases, the offenders re-offended. Yet, both offenders completed their conference plans.

The BARJ probation officer also noted that offenders who have participated in conferences seem to be more responsible about paying restitution. She noted that there was only one instance in which a offender failed to complete a conference condition. The offender was asked to improve his grades in school, but failed to do so. The offender completed all other conference conditions. As opposed to referring the offender's case back to the state's attorney's office, the BARJ probation officer called the victims (who suggested the condition) and explained the situation. The victims encouraged the BARJ probation officer to successfully discharge the offender.

Program Inception and Development

The chief probation officer spearheaded efforts to develop a program in the county based on the BARJ philosophy. Probation staff became aware of BARJ through

seminars at two separate conferences. In addition, the chief probation officer came in contact with BARJ advocates through a local church group.

As a result of this exposure to BARJ, the chief probation officer became an advocate of BARJ. The chief probation officer realized that in order to develop a BARJ-based program in the county, it was necessary to receive the support of the juvenile court judge, the state's attorney, and the community at large. The chief probation officer began by introducing BARJ to the juvenile court judge. The judge was supportive of the BARJ philosophy, and became more supportive after attending a BARJ training seminar along with the chief probation officer and another probation officer. Participants at the seminar were taught how to conduct family group conferences.

Upon returning from the training seminar, the chief probation officer and the judge agreed that family group conferences would work well in their county. They proceeded to elicit the support of the community. Thus, they spoke to numerous civic organizations about BARJ and about family group conferences. These speaking engagements took place from approximately September, 1998 to January, 1999. An additional goal of the speaking engagements was to seek community volunteers for the prospective conferences. The chief probation officer reported that the civic organizations were very supportive of BARJ and that the probation department was able to find volunteers rather easily.

In addition, the BARJ probation officer noted that, on several occasions, community members have contacted the probation department asking whether a minor could be asked to participate in a conference without having been arrested. In one of these instances, a mother who was victimized by her son wanted a conference to be held

so that the minor could be held accountable for his actions without getting a court record. In another, the park district contacted the probation department. In both these instances, the probation department referred the individual to the police, but conferences were subsequently held. But, these contacts are consistent with other evidence suggesting that, on the whole, the community appears to be quite supportive of family group conferences.

Around the same time that the chief probation officer and judge were introducing BARJ and family group conferences to the community, the chief probation officer was also holding conversations with the state's attorney about the program. The chief probation officer stated that the state's attorney's cooperation was absolutely essential in order for the program to succeed. The state's attorney stated that, when the chief probation officer approached him about the conferences, he fully supported the idea. He stated that he would be receptive to any program that moves cases through the system more quickly and provides additional ways in which cases can be resolved and/or dispositions can be determined. He also noted that the program is often used to divert offenders from going to court and that the family group conference program is more effective than the only program that had previously been in place (in which the minor signs an informal contract, the conditions of which are decided upon by the probation department). In the state's attorney's opinion, the discussion-oriented format of family group conferences, as well as the involvement of victims and community members, makes the family group conference program more useful and effective.

Conversations between the state's attorney and chief probation officer were focused primarily on two issues, both of which have been described above: the case selection process and the issue of whether conference content would remain confidential

if cases were referred to court. The probation department and state's attorney's office had little difficulty resolving these issues.

The chief probation officer received full cooperation for the program from the juvenile court judge, the community, and the state's attorney. However, the chief probation officer also stated that it has taken longer to gain acceptance for the program from local law enforcement agencies. In the chief probation officer's opinion, local law enforcement is gradually becoming more accepting of the program as more officers attend conferences. The chief probation officer believes that some law enforcement officers initially believe that the conferences are not an effective tool for making offenders accountable for their actions.

Method – Family Group Conference Case Description

The probation department made the evaluation team aware of an upcoming family group conference involving a retail theft that occurred at a local convenience store. A 13 year old male was caught stealing cigarettes by the store's night manager. In attendance at the young offender's conference were the minor, the minor's mother, the minor's 12 year old brother, the minor's 10 year old sister, the store's night manager (the victim), a female high school student (the community representative), the arresting police officer, and two conference co-facilitators.[2]

The primary author began by contacting the minor's mother and the victim prior to the conference to obtain their permission to attend the conference and to ask

[2] In the case description, the offender is referred to as "the minor". This is in contrast to the program description, in the terms "offender" or "young offender" are used. In all three case study reports, the offender is referred to as "the minor". Thus, the term was adopted here for consistency. However, the program description includes a general description that applies to all cases, including those in which the offender is not a minor, according to Illinois law (i.e., is over 16 years of age). Thus, it was inappropriate to refer to offenders as "minors" in the program description.

whether they would be willing to participate in an interview after the conference. The minor's mother was also asked whether the offender would be willing to participate in an interview. Both the minor's mother and the victim agreed to let us attend the conference and agreed to an interview. The minor's mother preferred that we not speak to the minor, as he was quite embarrassed about the incident. However, she consented to us distributing a survey to the minor after the conference. The minor chose not to complete the survey.

The primary author attended the conference and sat in the corner of the conference room at a location which made him clearly visible to all conference participants. The facilitator introduced (or re-introduced) the primary author to the participants at the beginning of the conference. The primary author took detailed notes on the content of the conference and made some informal observations of the atmosphere at the conference and the demeanor of conference participants.

In addition to the minor's mother, the minor, and the victim, post-conference interviews were also requested from the high school student and the police officer. Both of these individuals consented to be interviewed.

The interviews with the minor's mother, the victim, the high school student, and the police officer each lasted approximately 20 to 30 minutes. Each interview was conducted over the telephone and audiotaped. Unfortunately, approximately the last three minutes of the victim interview were difficult to hear. For this portion of the audiotape, it was possible to determine the general nature of the response, but not details. Moreover, this error was not noted until several weeks after the interview. Caution was exercised when reporting the results of this portion of the victim interview.

The BARJ probation officer served as one of the two co-facilitators. When the BARJ probation officer was interviewed for the program description, she was also asked questions specifically about the conference. As noted above, the BARJ probation officer participated in two telephone interview sessions. One interview session took place prior to the conference and one took place after the conference.

Interviews were not requested from the minor's brother and sister (because of their young age), or from the other conference co-facilitator (because it was determined that an adequate amount of information on conference facilitation was obtained from the BARJ probation officer). Thus, data for the case study came from the five interviews and notes taken by the researcher during the conference. See Appendix A for lists of the questions that interview participants were asked.

Case Selection and Conference Organization

The BARJ probation officer stated that the minor's case was a very appropriate candidate for a conference. The offense was not particularly serious and the minor had never been involved in the juvenile justice system. Thus, she recommended to the state's attorney's office that the case be resolved by family group conference.

However, prior to making this recommendation, the BARJ probation officer received a phone call from the minor's mother. The minor's mother had heard about a diversion program in the county and specifically asked the BARJ probation officer whether her son would be appropriate for the program.

When asked about this phone call, the minor's mother stated that she knows a local police officer. After the offense occurred, she spoke to the officer about the offense. The police officer told her that it may be possible for the case to be handled by

the probation department as opposed to going to court. The officer mentioned that the probation department had diversion programs, but did not mention family group conferences specifically. The minor's mother stated that a period of time had elapsed since the incident and she had not been contacted by anyone or provided with any information. Wanting to get the situation resolved as quickly as possible, she contacted the state's attorney's office and was told that there was a good possibility that the case could be handled by the probation department. She subsequently contacted the probation department and spoke to the BARJ probation officer, who explained family group conferences to her. The minor's mother was very interested in the possibility of a conference being held to resolve the minor's case.

Shortly thereafter, the BARJ probation officer visited her home to discuss the conference and complete a social history. However, unlike other conferences, the minor's mother had already decided to participate in the conference based on the telephone conversation with the BARJ probation officer. The home visit served to prepare the offender and his mother for the potential conference. Nonetheless, the BARJ probation officer stated that she mentioned all the information that she typically mentions during meetings with offenders and their guardians (as was described above). The minor's mother stated that she believed the BARJ probation officer did a very good job of preparing her and the offender for the conference. She also stated that, during the meeting, the BARJ probation officer mentioned the goals of BARJ to her and the offender.

The minor's mother was actively interested in participating in a family group conference. Similarly, the night manager from the convenience store was also very

interested in participating in the conference. He had previously participated in two other conferences involving retail theft. One conference involved another retail theft that had occurred at his store. The other conference involved a theft that occurred at another store, but involved a young offender that he suspected was also stealing from his store. Thus, the night manager had participated both as a victim and as an interested community representative.

These prior experiences had led the night manager to be quite supportive of the family group conference program. The night manager stated that he believes the conferences are effective in reducing the likelihood that young offenders will commit another crime. He also emphasized that he thinks it is a good idea to intervene early and attempt to teach young offenders the harm that criminal behavior can cause. Thus, when the BARJ probation officer contacted him about the possibility of participating in a conference for the offender's case, he had no reservations. Nor was it necessary for the BARJ probation officer to explain the program to him.

The BARJ probation officer stated that she thought about possible interested individuals that she could contact to participate in the conference. She stated that she considered contacting a local business owner and a pastor at a local church (because she knew that the offender was a member of the church). These potential participants were to provide support for the night manager and the offender, respectively.

However, the BARJ probation officer stated that she did not contact these individuals because neither the night manager nor the minor's mother expressed a great deal of interest in bringing support group members to the conference. The night manager stated that he did not feel he needed personal support. He also stated that he knew there

would be a community representative in attendance. In his opinion, he and the community member would be able to sufficiently state the impact of the incident.

The minor's mother stated that she preferred the matter to be a family issue (i.e., that the matter be kept relatively private). She encouraged the minor to ask another relative to attend, but the minor preferred to involve as few people as possible. However, the minor specifically wanted his younger brother to attend the conference. According to the minor's mother, the offender believed that his brother's attendance would make the experience easier for him. The minor's embarrassment over the incident and the conference (and, hence, his desire not to involve too many people in the conference) may have been offset by a need for some support at the conference. The minor's 10 year old sister attended out of convenience, as a babysitter had to cancel.

The BARJ probation officer invited a local high school student to attend the conference as the community representative. The high school student is interested in pursuing a career in criminal justice. She was told during a college day at her high school that the probation department would be a good place to call to inquire about volunteer positions. She called and spoke to the BARJ probation officer, who told her about family group conferences and subsequently asked her to attend the minor's conference. The minor's conference was her first conference. She had received no training in BARJ prior to the conference.

The BARJ probation officer stated that the police officer agreed to attend, but seemed skeptical about the conference. However, the officer himself stated that he had no reservations about attending the conference and believed the program to be a useful

one for diverting young offenders from the court system and preventing future criminal activity. He had never attended a conference, but was aware of the program.

The Conference

The conference was scheduled to be held on a weekday afternoon at 4:00 p.m. The conference took place in the probation department offices. Specifically, the conference was held in a large room in the probation department that is typically used for meetings. The co-facilitators moved the tables to the sides of the room and placed nine chairs (one for each participant and the two facilitators) in a circle located approximately in the center of the room. Refreshments were placed on the tables that had been moved.

The victim and the police officer arrived first to the conference (at approximately the same time), followed by the high school student, then the minor and his family. Upon walking into the probation department, participants enter a waiting room. The co-facilitators greeted participants in the waiting room as they arrived and asked them to sign a confidentiality agreement. Participants were also asked to put on a name tag.

Next, participants were directed to their designated seats. The primary author sat in the corner of the room. The co-facilitators sat approximately across from each other in the circle, with the minor, the minor's mother, the minor's brother, and the minor's sister on one side of the co-facilitator and the night manager, high school student, and police officer on the other side.

The conference started on time. One of the co-facilitators began the conference by introducing the researcher to participants and then asking each participant to introduce him or her self. Then, she explained (using a script) that the purpose of the conference

was to reach a consensus as to how to repair the harm done by the minor's theft. She then proceeded to individually ask each participant about the incident.

She began by asking the minor to describe the incident. The minor proceeded to admit to the theft. Throughout the conference, the minor spoke very quietly. He tended to look downward as he spoke. He appeared to be somewhat nervous and embarrassed. The tone of his speech was apologetic and remorseful. Throughout the conference, his responses appeared to be extemporaneous, as opposed to rehearsed in advance.

The minor was then asked the following questions by one of the co-facilitators: "What were you thinking about at the time of the incident?", "Who do you think has been affected by your actions?", and "How have they been affected?" The minor responded that, at the time, he just wanted the cigarettes. He stated that his behavior affected his mother, who does not trust him as much as she did prior to the incident. He also stated that his behavior affected the convenience store because stealing causes the store to lose money that is used to pay store employees.

Next, the night manager, police officer, high school student, and the minor's mother, in turn, were each asked the following questions by one of the co-facilitators: "How do you feel about what happened?", and "What are the main issues?" The night manager and minor's mother were also asked "What has been the hardest thing for you?" Each of these four participants spoke to the minor in a calm, yet assertive manner. Their tone suggested that they were disappointed in the minor's behavior, yet genuinely interested in teaching the minor the impact of his behavior so that he would not engage in the same behavior again.

The minor's younger siblings were also asked to speak during the conference. Both children were nervous speaking in front of the group and contributed very little to the content of the conference. This was likely a result of their age (both children were quite young) and natural disposition (the children seemed to be shy and quiet by nature). However, the fact that the minor requested that his brother be present at the conference suggests that their presence may have made the experience easier for the minor.

The night manager stated that the incident did not surprise him because he had noticed the minor in the store before the incident and suspected that he was perhaps stealing. He was pleased that he caught the minor, both for the minor and for the store. He hoped that the minor will learn from getting caught, before the consequences get harsher. He noted that shoplifting has been a problem at the store. He stated that the hardest things for him were seeing minors in trouble and not being able to trust offenders who enter the convenience store.

The police officer pointed out to the minor that everyone is affected when people steal because it forces stores to raise their prices. The officer also pointed out that his understanding of the incident was that the minor stole the cigarettes for someone else. The minor concurred with this. The officer also elicited an open admission from the minor that it was not the first time he had stolen cigarettes from the store.

The high school student reiterated the negative aspects of stealing. She also pointed out that it is illogical to steal for someone else because the person who does the stealing will end up being the person who must face the consequences.

The minor's mother stated that she was very disappointed when she found out that the minor had stolen. The main issue was that the minor must learn that stealing is

wrong. She reported that the hardest thing for her was not feeling like she could trust her son. She stated that she has been monitoring his behavior much more closely since the incident. She also stated that she was looking into family counseling and/or individual counseling. The counseling was primarily intended to address the minor's relations with his mother and his siblings. However, in the mother's opinion, some of the behaviors displayed within the home may have been related to his decision to steal from the convenience store.

Next, the minor was asked to comment on what he had heard from the other participants. At this point, the minor apologized to all participants, stating that what he did was wrong.

After the apology, each participant was asked by one of the co-facilitators "What would you like to see come from tonight's conference?" This question provided participants with the opportunity to make suggestions for a conference plan. After each suggestion, the minor was asked whether the suggestion was acceptable to him. The minor immediately accepted each suggestion.

The night manager requested that the minor participate in community service. Specifically, he suggested that the minor should come to the convenience store and clean the area outside the store for a total of four hours. In addition, he requested that the minor pay $15 restitution. The restitution would pay for cigarettes the minor had stolen before getting caught.

The police officer asked the minor whether he smoked cigarettes. It was determined that the minor had tried smoking cigarettes several months ago, but was not a

regular smoker. Thus, the officer added no further conditions, but stated that he believed counseling to address family issues would be a good idea.

No other participant added any new conditions. Further discussion focused primarily on the specifics of when the minor would complete the community service, the date by which the full restitution amount was to be paid, and how the minor would earn the restitution money. Once the plan was finalized, then the co-facilitators left the room to write the plan on a form that was to be signed by the minor, the minor's mother, and the night manager. Participants were invited to have refreshments while the plan form was being written. The final plan was as follows:

- The minor will clean the area outside the convenience store for a total of four hours. The minor will contact the convenience store to arrange a time to do the cleaning. The cleaning will be supervised by convenience store staff. The night manager will report back to the probation department whether the minor has done the cleaning.
- The minor will have 15 weeks to pay $15 to the convenience store. He will earn the money by performing chores at home. The night manager will report back to the probation department whether the store has received the money.
- The minor will attend individual counseling and complete all recommended sessions. The minor's mother will report back to the probation department whether the minor has been participating in counseling.

After the minor, the minor's mother, and the night manager signed the conference plan form, all conference participants except for the police officer (who was on duty) remained seated in the conference circle and held a cordial conversation for

approximately 20 minutes. During the conversation, all participants were quite supportive of the minor.

Overall, the conference participants all remained reserved throughout the conference. No participant became angry or upset during the conference. The BARJ probation officer noted that the atmosphere of each conference differs, and that other conferences have been more emotional. However, when asked whether the conference could be described as having proceeded like the typical conference, she responded affirmatively. It may be concluded that conference participants tend to remain calm and reserved, but a conference may be an emotional experience for some participants. Consistent with this, the co-facilitators always place a box of facial tissue under one of their chairs prior to each conference.

The conference participants were respectful of each other and of the conference process. No participant spoke out of turn, interrupted another participant, or negated another participant's statement or opinion. The BARJ probation officer stated that, in her opinion, the script is not so rigid as to eliminate all unstructured dialogue between participants. In her experience, there has been unstructured dialogue during the parts of the conference when conference conditions are being suggested. However, most speaking turns in the minor's conference were directly allocated by the co-facilitators.

The minor's mother, the night manager, the high school student, and the police officer were asked several questions intended to determine whether they were satisfied with the conference process. Specifically, these participants were asked the following questions: "Did the conference proceed as you expected?", "Were you satisfied with your role in the conference?", "Were you able to say everything you wanted to say during the

conference?", and "Did you think the conference was well-organized?" All four participants had uniformly positive things to say about the conference proceedings. Conferences proceeded in accordance with participants' expectations. The organization and structure of the conference satisfied participants. The minor's mother reported that the conference was an embarrassing, difficult experience for the minor and may cause the minor to think about his actions in the future in order to avoid the negative consequences of getting caught committing a crime. The night manager reported that he has been satisfied with his role in the conferences both because it provides him with the opportunity to help his employers (to recoup money for stolen items, minimize the likelihood that a minor will steal from the store again) and because he is part of the community. The night manager also clearly emphasized that he would be willing to participate in future conferences as a community member.

Finally, the minor's mother, the night manager, the high school student, and the police officer were asked several questions intended to determine whether they were satisfied with the outcome of the conference. These participants were asked the following questions: "Do you think the offender now better understands how his behavior has impacted the victim and the community?", "Do you think the conference plan was fair to the minor and the victim?" and "Did the outcome make the minor accountable for his actions?" Again, all participants responded very positively to these questions (although, it should be noted that it was difficult to hear the night manager's responses to these questions). All participants supported the idea of having the minor hear the impact that his behavior had on others. The minor's mother and the high school student noted that the conference enabled the minor to understand the impact of his behavior better than

court would have. The night manager and the police officer were cautiously optimistic that the conference would have a positive impact on the minor. The night manager noted that he had wanted the minor to have a plan that he could follow through with on his own, without burdening the minor's mother. He believed that the minor's plan achieved that goal.

The BARJ probation officer noted that the minor's conference plan was fairly typical. She stated that the only aspect of the plan that surprised her was that the night manager wanted the minor's community service to be performed at the convenience store. She stated that, at the previous conference the night manager had attended as a victim, he had wanted the minor to perform community service, but at another location. When asked about this, the night manager stated that the store does have a policy that restricts individuals who are caught shoplifting from entering the store. However, he had discussed the matter with the store owner and they agreed that this time the minor would be asked to perform community service directly to the store.

Conclusions

This section provides an assessment of the county's family group conference program. The assessment is not intended to be a critical evaluation of the program. The case study was designed to be descriptive and exploratory. Instead, the purpose of the assessment is to organize the information described above. In order to draw conclusions or identify themes in the case study report, it seems useful to link together consistent information.

The assessment examines the family group conference program according to several criteria. The family group conference program was established to achieve the

fundamental goals of BARJ. Thus, in the sections below, information is summarized that both supports and challenges the proposition that the program achieves each of the three goals of BARJ: to make juvenile offenders accountable for their actions, to develop competencies and skills in juvenile offenders, and to ensure community safety. In addition, the BARJ philosophy also emphasizes community bonding. Information is summarized that both supports and challenges the proposition that family group conferences aid in making participants (in particular, the minor) feel connected to the community. After each BARJ goal is addressed, a tentative conclusion statement is made regarding the effectiveness of the county's family group conference program in achieving the goal.

Programs like the county's family group conference program have their detractors. The criticisms raised by detractors seem particularly germane to this report, as they could be levied against the county's family group conference program. These criticisms are considered in light of the data collected for this report.[3] After each criticism is address, a conclusion statement is made regarding whether the criticism is valid for the county's family group conference program.

First, some critics argue that programs like the family group conference program can "widen the net" of the juvenile justice system to include young offenders who would not otherwise become involved in the system. Or, such programs can force young offenders "deeper" into the system than they otherwise would get (e.g., if a police officer

[3] To the best of our knowledge, the criticisms addressed in this section have not been published or presented by any specific individual, group, or organization. Instead, they are anecdotal. The criticisms have been raised during meetings attended by the evaluation team in which BARJ and/or family group conferences were discussed. Those who raised the criticisms did not attribute them to themselves or to any particular individual, group, or organization.

refers a case to the court system so that the offender can be involved in the program, as opposed to issuing a station adjustment).

A second (and related), criticism, is that net widening will not only waste valuable time and resources, but can also serve to stigmatize young offenders by branding them as criminals at a young age over the commission of relatively minor offenses. The community may label young offenders as criminals or young offenders may come to perceive themselves as criminals. To continue the argument, young offenders who commit lesser offenses may be better served by receiving sanctions outside of the juvenile court system (e.g., station adjustments, diversion programs through law enforcement agencies), receiving a warning from a police officer (e.g. street adjustment), or having their parent(s) or guardian(s) handle the matter.

A third criticism of programs such as family group conferences is that they run the risk of violating offenders' due process rights. According to this argument, programs such as the family group conference program may lack provisions that, by their absence, result in unfair or arbitrary treatment of an individual. According to this line of criticism, offenders who participate in conferences are encouraged to admit to an offense without an attorney being present. Related to this, probation officers may present the offender's options (go to court vs. participate in a conference) in a manner that is subtly (or not so subtly) coercive. Then, because family group conferences do not adopt the formal procedures of court proceedings (which can serve to protect defendants), offenders may make statements during conferences that subsequently work to their disadvantage.

Finally, a fourth criticism of family group conferences is that they may increase victim fear and/or re-victimize crime victims.

When reading the assessment, one should keep in mind that a great deal of the data came from interviews with individuals who fully support the program and, therefore, may be motivated to present the program in a positive manner. In addition, it should be noted that the report lacks the perspective of juvenile offenders who participated in conferences.[4] This makes it difficult to, for example, determine whether offenders develop competencies as a result of participating in family group conferences.

Accountability

First, information was examined supporting and challenging the proposition that the family group conference program makes juveniles accountable for their actions. Traditionally, the word accountability invokes thoughts of punishment; making offenders receive appropriate consequences for their criminal behavior. This definition of accountability is examined in this sub-section.

However, accountability in accordance with BARJ requires somewhat more than merely evidence that the punishment fit the crime. Juvenile offenders must, to the extent possible, restore the victim and the community to pre-offense levels of well-being, both materially (e.g., through restitution) and psychologically (e.g., through "having their say" and receiving an apology from the offender). According to BARJ, juveniles are directly accountable to the victim and community. This BARJ-specific definition of accountability is also examined in this sub-section.

[4] For data on the offender perspective on family group conferences, see a report published by the University of Minnesota's Center for Restorative Justice and Peacemaking entitled "Client Evaluation of Family Group Conferencing in 12 Sites in the 1st Judicial District of Minnesota" (Fercello & Umbreit, 1998). The report includes self-report data from offenders on various topics, including satisfaction with the conference process and attitudes about the offense before and after the conference.

First, family group conferences provide direct consequences for offenders through the development of a conference plan. The conference plan is akin to a judicial sentence. The data collected for this report does not allow for a direct comparison between conference plans and judicial sentences (e.g., to examine which is more stringent, etc.). However, the data collected for this report shows that offender's guardians, victims, community members, and police officers report that conference plans make offenders accountable for their actions. Every case study participant reported that the plan made the offender accountable for his actions. Every respondent to surveys distributed by the probation department reported that, as a result of the conference, justice had been served. In addition, the state's attorney, whose job is to make offenders accountable for their actions, stated that he believes the conferences are an effective tool for ensuring that offenders are held accountable for their actions. Subjective data collected from those involved in the conferences uniformly suggests that the sanctions or conditions imposed in conference plans provide sufficient consequences for offenders.

Second, the BARJ philosophy holds that the offender should be directly accountable to the victim and the community. Certainly, direct accountability is supported merely by allowing victim and community members the opportunity to contribute to conference plans. In addition, the data uniformly showed that victims and community members were satisfied with the conference process, the conference outcome, and their role in the conference. Interview responses from case study participants, survey responses sent to the probation department, and the overall impression of the BARJ probation officer unanimously reflect this satisfaction. If one infers that conference participants who report satisfaction with all aspects of the conference have been returned

to pre-offense levels of well-being, then the data suggests that the conferences are holding juveniles directly accountable to victims and the community.

It is also worth noting that the BARJ probation officer reported having little difficulty getting victims to participate in the conferences. This perhaps suggests that victims appreciate having the opportunity to voice their opinions and/or potentially hear an apology from the offender.

Conclusion: *Overall, little evidence was noted challenging the assertion that family group conferences make juvenile offenders sufficiently accountable for their actions.*

Competency

Next, information was examined supporting and challenging the proposition that the program develops competencies in juvenile offenders. The BARJ philosophy holds that young offenders should leave the juvenile justice system with an increased ability to function effectively in the community. In practice, BARJ proponents tend to support collaborations between the juvenile justice system and, for example, employers and educators. Such relationships can lead to programs that develop educational, vocational, and social competencies in young offenders. Outside of including certain elements in a conference plan (e.g., improved academic performance, counseling), the family group conference program alone seems to do little to develop these competencies. This suggests that perhaps family group conference programs should operate in conjunction with other programs more directly targeted toward competency development.

Conferences provide victims and community members with the power to determine conference conditions. Such participants may lack the ability or willingness to

suggest conference conditions that foster competencies. Conference facilitators, although they may have a better sense of the offender's needs, are unable to guide the outcome of the conference, without undermining other conference goals (serving the victim, providing a neutral, balanced environment, etc.). Instead, the BARJ probation officer implicitly guides the outcome through the conference planning process (i.e., conversations held with participants prior to the conference). The BARJ probation officer indicated that this implicit guidance is performed with the minor's competency needs in mind.

Family group conferences may teach offenders the impact that the offense has had on the victim and the community. Offenders who have achieved this understanding have, arguably, developed a social or basic life skill that will enable them to function more effectively in society. In the case study interviews, the minor's mother, the victim, the community member, and the police officer were asked whether they believed that the offender had learned the impact of his behaviors. These case study participants tended to be guardedly optimistic that the conference was a learning experience for the minor.

However, the BARJ probation officer noted that offenders who participate in family group conferences tend to be more conscientious about following through on conditions or responsibilities than juvenile probationers she has monitored (in particular, offenders who participate in conferences are more conscientious about paying restitution). This may be an indication that offenders who participate in family group conferences realize the impact that their actions have had on the victim and the community. This realization, in turn, may be defined as the development of a competency.

Conclusion: *The probation department only has indirect control over the content of conference plans. As a result, conference plans may not address important competency needs of young offenders. However, the conference experience (facing the victim, learning the impact of one's behavior) may help develop social competencies in young offenders.*

Community Safety

Information was examined supporting and challenging the proposition that the program helps to ensure community safety. Some research has indicated that young offenders who face their victims are less likely to re-offend than young offenders who do not directly face their victims, although in many of these studies the result was not statistically significant.[5] If young offenders who participate in family group conferences are less likely to re-offend, then family group conferences may help in ensuring community safety. The BARJ probation officer reported that, to date, only 2 of the 26 offenders who have participated in a family group conference have been arrested for another offense. However, it should be re-emphasized that offenders who participate in family group conferences tend to commit less serious offenses and may, independent of the impact of the conference, be less of a risk to re-offend than other populations of offenders.

Conclusion: *There seems to be a tendency for minors who face their victims to be less likely to re-offend. For the county's family group conference program, this may be*

[5] For a review of research on the effectiveness of various types of restorative justice programs (including family group conferences and including the effectiveness of the programs on recidivism) see a report published by the University of Minnesota's Center for Restorative Justice and Peacemaking entitled "Information on Research Findings Related to Uniquely Restorative Justice Interventions: Victim Offender Mediation and Family Group Conferencing" (Umbreit, 1996).

because offenders who participate in conferences have committed relatively minor offenses.

Connecting the Community

The BARJ philosophy emphasizes that, by involving the victim and the community in the juvenile justice system, young offenders can learn that they are part of a larger community. As a result, young offenders may feel more connected to the community. The data reveals some indication that such connections are being made. Specifically, two comments were made by interview or survey respondents indicating that juvenile offenders who participated in a family group conference exhibited behaviors suggestive of increased community awareness. The victim in the case study noted that, on several occasions, he has held conversations with the juvenile offenders who participated in the conferences he attended. Some of these conversations were initiated by the young offenders. A community representative responding to an open-ended question on the probation department survey asking for general comments or suggestions noted that one of the young offenders from the conference she participated in had, on two occasions, gone out of his way to speak to her. The young offender walked across the street to speak to her instead of staying on the side of the street that he was walking on.

In addition, some evidence indicates that other participants in family group conferences also feel more connected to the community as a result of the experience. The probation department included the question "Do you feel more connected to the community as an outcome of this process?" on surveys distributed to victims, community

representatives, and police officers. Five of the six respondents to this question answered affirmatively.

Of course, these other participants may participate in conferences precisely because they are invested in the community. That is, the program attracts individuals who value and are motivated to strengthen the community. The probation department sought, and was able to easily obtain, community volunteers from civic organizations. The victim in the case study made an unsolicited statement indicating that he has participated in three family group conferences because he feels that he is part of the community.

Finally, some evidence suggests that members of the community at large are becoming aware that the program exists and support the purpose of the program. The chief probation officer and juvenile court judge introduced BARJ and family group conferences to members of civic organizations. Some evidence suggests that awareness of the program has expanded beyond members of these civic organizations. On two occasions, community members have contacted the probation department to request that a conference be held, even though the minor was not arrested for his actions. In both these cases, conferences were held (but only after police incident reports were completed). In addition, the offender's mother in the case study was aware of the program and made a direct call to the probation department after the incident (although, she did not know the specifics of the program). These unsolicited requests for conferences suggest that some community members are becoming aware of the program and value the program as a tool for handling juvenile offenses. This awareness and perception of the program may enhance the likelihood that family group conferences can connect community members.

Conclusion: *Anecdotal evidence from conference participants suggests that conferences aid in connecting minors to the community. Community awareness and positive perception of the conference program may enhance the community building capacity of the program. However, overall, more evidence is necessary in order to determine the effectiveness of the program for increasing community bonds.*

Widening the Net?

The BARJ probation officer noted that county police officers are slowly becoming more aware of the program and are beginning to specifically recommend conferences. If officers are recommending conferences as opposed to having parents handle the incident or issuing station adjustments, then the family group conference program may be widening the net or forcing young offenders "deeper" into the juvenile justice system.

Moreover, there have been instances when citizens have circumvented the police and directly contacted the probation department about the family group conference program. Again, these direct contacts may widen the net by involving minors in the juvenile justice system who would otherwise not be involved.

Both the probation department and the state's attorney's office have the option of dismissing cases that reach their offices. However, the probation department as a whole strongly advocates the family group conference program. When examining arrest reports for relatively minor offenses, their primary consideration when deciding whether or not to pursue a family group conference is whether probable cause exists to believe that the defendant committed the offense (as opposed to whether the offense is too trivial to handle by holding a family group conference). The BARJ probation officer stated that

the probation department attempts to hold a conference for every case that reaches their office. Thus, it appears that the probation department considers family group conferences first, then other options (dismissal or court referral). Moreover, once the probation department and state's attorney's office agree that a conference will be pursued for a particular case, then the defendant is "locked" into the system. That is, the defendant is presented with the options of either participating in a family group conference or going to court. The state's attorney, by agreeing that a conference can be pursued for a particular case, is committing himself to a prosecution if the defendant prefers not to participate in a conference, the victim prefers not to participate in a conference, an adequate resolution cannot be reached at the conference, or the offender does not abide by the conditions of his or her conference plan.

However, the BARJ probation officer stated that she is quite cognizant of the possibility that the program can conceivably widen the net of the county's juvenile justice system. She stated that she is cautious when inferring that probable cause exists and has, on occasion, suggested that cases be dismissed because the offense is too trivial. She also noted that, because the county has a small population, there are fewer juvenile cases that reach the court system. Most of the juvenile cases that reach the court system are for relatively minor offenses. Prior to the existence of the family group conference program, the state's attorney's office often opted to prosecute cases involving lesser offenses. It perhaps follows that many of the cases that are currently being handled through family group conferences may have previously been handled in court. This would dismiss the notion that family group conference program is widening the net or forcing young offenders "deeper" into the juvenile justice system. Consistent with this, the state's

attorney reported that, prior to the existence of the family group conference program, he was dissatisfied with the county's only diversion program. However, he is quite satisfied with the family group conference program. For cases in which he would like to see young offenders be held accountable in some way, he may have previously been more inclined to prosecute the case in court. But now, he may be just as inclined to allow a family group conference (consistent with this, he has never refused a request from the probation department that they be allowed to pursue a conference).

Conclusion: *The probation department's advocacy and active promotion of their family group conference program may have resulted in additional cases being brought to their attention as potential conference candidates that would otherwise not have been brought to their attention. Conference procedures "lock" offenders in the criminal justice system once it has been determined that the probation department will attempt to organize a conference. Because the county has a small juvenile caseload and generally does not dismiss juvenile cases once they have been referred to the court system, the county's advocacy of the program and chosen procedures do not appear to be "widening the net" of the county's juvenile justice system or forcing young offenders "deeper" into the system. However, for counties with larger caseloads (who dismiss a subset of their juvenile cases, whose police officers refer fewer juvenile offenses involving minor offenses to the court system, etc.), family group conference programs may result in "net widening" or "deepening".*

<u>Stigmatizing or Reintegrating Minors?</u>

The BARJ probation officer noted that, even if, as a result of the family group conference program, the net is being widened to involve more young offenders in the

criminal justice system and/or more young offenders are becoming involved in the court system, the nature of the family group conferences minimizes the likelihood that the young offender will be stigmatized or branded as a criminal (either by the community labeling the young offender or by the young offender perceiving him or her self as a criminal). That is, even though participants in conferences make it clear that they do not condone the young offender's behavior, the conferences are also structured so that participants may embrace the young offender as a member of the community.

Consistent with this, several incidents were described above indicating that young offenders who participated in conferences felt as if they were part of the community. These instances suggest that the young offenders may not have felt stigmatized as a result of participating in a family group conference.

The primary author noted that there appeared to be more negative than positive statements made about the young offenders. However, many of the negative statements were made in a calm, constructive manner. Some of the negative statements were prefaced by statements such as, "He seems like a good kid, but ….", or "I know that's how kids are, I was young once, but…" By prefacing negative statements in this manner, the speaker is condemning the offender's actions, but not the offender him or her self. Such prefacing statements may prevent conferences from stigmatizing young offenders.

On the other hand, the BARJ probation officer noted that young offenders tend to show obvious signs of nervousness or embarrassment during conferences. She also noted that the offenders' parents tend to express disappointment in the offender, as opposed to defending the offender. Thus, parents tend to contribute to the conference in a manner much like victims and community members.

Thus, young offenders may possibly come out of conferences feeling as if conference participants have been punitive as opposed to supportive. Some may argue that they should feel that way. After all, one goal of the conferences is to make offenders feel as if they have been held accountable for their actions. However, another goal of family group conferences is to make young offenders feel that they are part of the community. The probation department intends for the community building process to begin immediately after the conference (while the conference plan is being written). The primary author did not note much evidence that this was occurring until the facilitators returned to the conference room and initiated discussion between conference participants. Even then, the young offenders did not noticeably alter their demeanors from the quiet, embarrassed postures adopted during the conference.

Conclusion: *Young offenders are mildly rebuked during conferences. Critical statements tend to be made constructively, or in a manner that condemns the action as opposed to the individual. Thus, even though young offenders appear very uncomfortable during the conference, neither the conference process nor the manner in which young offenders are treated during the conference seems to foster an environment that will stigmatize minors.*

Due Process Violations?

Young offenders and their parent(s) or guardian(s) are asked to participate in family group conferences (and admit to the offense) without an attorney being present. Moreover, attorneys are not present at the conferences. The probation department and state's attorney's office did a great deal to ensure that young offenders will not experience any negative consequences as a result of participating in a family group

conference. The admission is not obtained in writing. Conference proceedings are confidential and cannot be used against young offenders in subsequent court proceedings.

On the other hand, there could be instances when a young offender fails to abide by conference conditions, has his or her case referred back to court, and decides to plead not guilty to the offense (i.e., recant the admission). In such instances, a judge will hear the case knowing that the young offender previously participated in a family group conference (and, previously admitted to the offense). The judge will have to ignore this information and consider facts and evidence, but one could argue that the previous admission could put the young offender at a disadvantage. It should be noted that this scenario has never arisen in the county.

Even though the BARJ probation officer emphasizes the voluntary nature of the conference to offenders and their parent(s) or guardian(s), they may feel as if they are choosing the best of two inherently unpleasant choices. Their options are to face a judge or face the victim. Even if defendants and/or their parent(s) or guardian(s) believe that the defendant is innocent, they may perceive the option of facing a judge as too large a gamble; if the defendant is found guilty, then the sanctions could be more severe and the defendant will receive a court record. In this sense, one could argue that young offenders are being subtly encouraged to participate in family group conferences.

One potential result of this encouragement is that some young offenders and/or their parent(s) or guardian(s) may choose to participate in a family group conference, but not really be invested in using the conference as a forum to address the young offender's criminal behavior and/or the antecedents of the young offender's criminal behavior. This, in turn, may impact the young offender's and parent's investment in addressing the

young offender's criminal behavior. One indication of this lack of investment may be the sheepish, quiet, embarrassed demeanors that young offenders tend to display at conferences (although there are also likely other factors causing this behavior as well). On the other hand, parents at the conferences tend to be quite invested in ensuring that the young offenders receive appropriate sanctions for their behavior. On the whole, although parents may make statements supporting the young offenders (in particular, as the BARJ probation officer noted, when they believe that a victim, police officer, or community member is treating the young offender too harshly), parents' contributions tended to approximate those of victims and community members (e.g., expressing disappointment over the young offender's behavior, contributing to a conference plan).

Another potential result of the probation department encouraging young offenders and parent(s) or guardian(s) to participate in family group conferences is that it may impact the likelihood that conferences can be used to develop competencies in young offenders (young offenders and their parent(s) or guardian(s) may be hesitant to bring up problems the young offender is having). One indication that this is occurring may be that offenders tend not to bring any support outside of the immediate family (additional support members may have been able to identify other issues in the young offender's life). Young offenders and their parent(s) or guardian(s) seem to simply want to get the conference over with, while involving as few people as possible. However, when organizing conferences, the BARJ probation officer uses the visit to offenders' homes as an opportunity to identify additional issues. The BARJ probation officer noted that, when it is possible to do so without breaching her neutrality as a facilitator, she specifically raises issues during the conference that she identifies prior to the conference.

Thus, the BARJ probation officer subtly attempts to facilitate the likelihood that conferences will be used to develop competencies in young offenders.

Conclusion: *The county has done a great deal to ensure that young offenders will incur no negative consequences as a result of participating in a family group conference. However, young offenders and their guardian's may be receiving subtle encouragement (without legal representation) to participate in a conference. This may undermine some of the program's goals.*

Revictimizing the Victim?

The conferences are voluntary for victims. Victims of serious, violent offenses are typically not asked to participate in conferences (although conferences have been held for violent offenses; these have tended to be offenses committed by adults, in which the offender and victim previously knew each other). Finally, victims are not asked to participate until the offender has agreed to participate (eliminating the possibility that the victim will be re-victimized by being offered the opportunity to face the offender, only to have that opportunity taken away).

Conclusion: *The data for this report reveals no evidence that victims are being re-victimized as a result of participating or being asked to participate in a family group conference.*

A Final Note

As a concluding topic, it seems worth noting that the county's demographics (small, rural, racially homogenous) may have impacted the conclusions drawn regarding the family group conference program. For example, it is conceivable that the community building benefits of the family group conference program were easier to achieve in this

particular county. Moreover, the size of the county makes it possible for the state's attorney's office to prosecute cases involving lesser offenses. Thus, cases that are now being resolved by conferences may have, in the past, been resolved in court. In a larger county, it could be precisely the opposite: such cases may have been more likely to be dismissed in the past. It will prove interesting to examine the success of BARJ-based programs in jurisdictions that have different demographics.

IV. A Case Study Report of an Extended Jurisdiction Juvenile (EJJ) Prosecution

Description of the EJJ Section in the Illinois Juvenile Court Act

During the 1990's, many states passed legislation which attempted to crack down on serious and violent juvenile offenders. One approach taken in such legislation is to increase the number of juvenile cases eligible to be handled in adult court. One way in which more minors become eligible for adult court is through *blended sentencing* laws. Blended sentencing laws allow courts to impose both juvenile and adult sentences on juvenile offenders. There are various types of blended sentencing laws, which vary as to which court (adult or juvenile) has discretion to impose blended sentences and on the nature of blended sentences that may be imposed.[6] For example, some blended sentencing laws allow courts to issue minors both a juvenile and an adult sentence (the juvenile *and* adult sentence approach). Others allow courts to choose either a juvenile or an adult sentence (the juvenile *or* adult sentence approach).

P.A. 90-590 (the Juvenile Justice Reform Provisions) mandated that legislation be included in the Illinois Juvenile Court Act that allows a type of blended sentencing

[6] For a description of different types of blended sentencing options, see a report published by the Office of Juvenile Justice and Delinquency Prevention entitled "Juveniles Facing Criminal Sanctions: Three States That Changed the Rules" (Torbet, Griffin, Hurst, & MacKenzie, 2000).

known as Extended Jurisdiction Juvenile (EJJ) prosecutions. The Illinois Juvenile Court Act now allows state's attorneys to petition the court for an EJJ prosecution if the minor is 13 years of age or older and is charged with an offense that would be a felony if committed by an adult (705 ILCS 405/5-810). Minors who are found guilty in an EJJ prosecution are given both a juvenile sentence and an adult sentence. If the minor successfully completes the juvenile sentence, then the adult sentence is stayed and not imposed. If the minor violates the conditions of the juvenile sentence then, depending on the nature of the violation, the adult sentence may be imposed. This blended sentencing option is labeled "extended jurisdiction" because the adult sentence "extends" beyond the jurisdiction of the juvenile court.

Courts are left to decide the nature of the juvenile and adult sentences (i.e., the section in the Illinois Juvenile Court Act does not specify the nature of the sentences). For example, the Illinois Juvenile Court Act does not specify whether the sentences should be probation sentences, juvenile detention sentences, adult prison sentences, etc. However, many of the respondents to the statewide and focus county surveys believed that the intended purpose of EJJ prosecutions was to give minors who commit serious crimes a "second chance," while also acting as a deterrent to future criminal activity. If juvenile justice professionals are using EJJ in this manner, then a possible EJJ sentence may be a juvenile probation sentence and an adult prison sentence (i.e., letting the minor stay in the community, with a possible prison sentence serving as a deterrent).

The EJJ section in the Illinois Juvenile Court Act states that an EJJ prosecution should be granted if the juvenile court judge determines that there is probable cause to believe that the allegations against the minor (as described in the EJJ petition submitted

to the court) are true (705 ILCS 405/5-810 (1)). However, the judge may also determine, by a standard of clear and convincing evidence, that the minor is generally inappropriate for adult sentencing based on the seriousness of the offense, the minor's history of delinquency, the age of the minor, the culpability of the minor in committing the alleged offense, whether the offense was committed in a premeditated manner, and whether the minor used or possessed a deadly weapon when committing the alleged offense.[7]

If the judge grants the EJJ prosecution, then the minor has the right to request a jury trial. If a minor found guilty in an EJJ prosecution commits another offense while serving the juvenile sentence, then the court *must* impose the adult sentence (regardless of the type of offense that the minor committed). If any other form of violation occurs (e.g., a technical probation violation), then imposing the adult sentence is left up to the court's discretion.

Case Selection

Because the inclusion of the EJJ section in the Illinois Juvenile Court Act represented one of the more controversial components of the Juvenile Justice Reform Provisions, a decision was made to conduct a case study describing an EJJ prosecution. Results from the statewide and focus county surveys suggested that, at the time of survey data collection, relatively few EJJ prosecutions had occurred in Illinois. However, an EJJ prosecution came to the attention of the evaluation team because it had received media attention. An examination of newspaper reports on the case led us to believe that it may

[7] The EJJ case study report includes a great deal of legal terminology. Appendix B is a glossary of legal terminology used in the report. Whenever a term that appears in the glossary is introduced in the text, the Appendix is referred to in parentheses. When available, the glossary lists the definition that appears in the Merriam-Webster Dictionary of Law (1996). After each Merriam-Webster definition, the term placed in the context of the minor's case. The term clear and convincing evidence appears in the glossary.

prove to be an interesting case study and may lend itself to some interesting perspectives on EJJ from the parties involved. Permission was received from juvenile justice officials in the jurisdiction to conduct interviews on the case and to examine the minor's court records. In addition, at the onset of the research, the minor's case was under appeal.

Permission was received from the minor's attorneys to contact the minor and his mother. One limitation of this approach is that, because the events surrounding the case were interesting or sensationalistic enough to warrant media attention, the case may not represent the potentially more mundane, or typical, EJJ prosecution.

The EJJ prosecution occurred in a county that, according to the U.S. Census Bureau, had a population of over 260,000 in 2000. The county was formerly comprised almost exclusively of small farming towns. However, recent population growth has resulted in the expansion of several of the county's cities and towns. As a result, there are now several urbanized areas within the county. The U.S. Census Bureau estimated that, in 2000, 93.9% of the county's population was white (Hispanic or non-Hispanic).

Brief Case Overview

The case involved an armed robbery incident. The minor who received an EJJ sentence is a white non-Hispanic male, who was 16 years old on the day of the offense. He and four other individuals were involved in the offense. Two of the other four individuals were male and two were female. Two of the other four other individuals were minors on the day of the offense (approximately 16 years of age). The other two individuals were legally adults, but were still teenagers (18 or 19 years old). The five defendants were spending time at the home of one of the male defendants. The five defendants used drugs (marijuana and cocaine) at the male defendant's home. At some

point, one of the male defendants (not the minor who was sentenced under EJJ) suggested that they rob a local convenience store to obtain money for more drugs. The same male defendant suggested that they perpetrate the offense by using a pellet gun, trench coat, and mask (i.e., that they commit armed robbery while in disguise). The minor who received the EJJ sentence agreed to perpetrate the offense.

The five defendants drove to the convenience store. The male defendant who suggested that they commit the crime and thought of the details of the crime walked into the store alone to see whether there were other customers in the store that could hinder the robbery. The other four defendants remained in the automobile. The male defendant was seen on store video surveillance. This was how the five defendants eventually got caught. The male defendant left the store after a customer left and stated that the store was empty. Shortly thereafter, the minor who received the EJJ sentence entered the store wearing the trench coat and mask and carrying the pellet gun. He threatened the cashier (a young woman) and demanded that she give him money from the cash register. The cashier gave him $612 from the cash register. After leaving the crime scene, the five defendants split the money.

All five defendants were arrested approximately one or two days later, after the police determined the identity of the male defendant who had entered the store prior to the minor. The minor who received an EJJ sentence was charged with Aggravated Robbery and Conspiracy to Commit Aggravated Robbery.[8] The minor did not admit to the offense at the police station.

[8] See footnote #1 for a description of how offenses are classified in Illinois. In accordance with Illinois classifications, Aggravated Robbery is a Class 1 Felony (720 ILCS 5/18-5) and Conspiracy to Commit Aggravated Robbery is a Class 4 felony (720 ILCS 5/8-2 (a)).

The assistant state's attorney (ASA) who prosecuted the case believed that EJJ would be an appropriate option for the minor. She presented a plea agreement to the minor's public defender whereby the minor would plead guilty to the offense and receive an EJJ sentence. The attorneys agreed on a two year juvenile probation sentence and a five year adult prison sentence, to be stayed then vacated upon successful completion of the juvenile probation sentence. The minor and the minor's mother accepted the plea agreement. The plea agreement was then presented to the juvenile court judge, who also accepted the plea.

After approximately two months on juvenile probation, the minor and a male friend were arrested for stealing compact discs from an electronic appliance store and charged with Retail Theft, Less Than $150 (a Class A misdemeanor (ILCS 720 5/16 (A)(3))). The minor denies having committed the offense, stating that he was caught at a place in the store where store security officers could not reasonably infer that he and the friend intended to steal the compact discs.

However, the juvenile court judge ruled by a preponderance of the evidence (see the glossary in Appendix B) that the minor had stolen the compact discs and, as a result, the stay on the minor's adult sentence was revoked. According to the EJJ section in the Illinois Juvenile Court Act, because the minor violated the juvenile sentence by committing a new offense, the judge had no choice but to impose the adult sentence.

The minor was sent to a maximum security adult correctional facility. The minor was subsequently transferred to a minimum security adult correctional facility, where he participated in a work release program. After being charged with violating the conditions of his work release (not returning to the minimum security facility in a timely manner

after work), he was transferred to a medium security adult correctional facility. The minor denies the violation, claiming that he had been asked to work late by his employer.

After the stay on the adult sentence was revoked, the minor's public defender filed a motion to declare EJJ unconstitutional. The judge denied the motion. The minor's public defender then appealed the decision to revoke the stay on the adult sentence. After discussing the matter with the minor and the minor's mother, the minor's appellate defender filed a motion to dismiss the appeal. This decision was made because, even had the minor won the appeal, the case would have been re-tried (albeit not as an EJJ prosecution). The consequences of such a prosecution may not have worked to the minor's advantage (had the minor been found guilty, the sanctions may have been more severe than the EJJ adult sentence or extended beyond the minor's parole date). Thus, the minor opted to simply await his parole date at the medium security facility, where he still resided at the time this report was being written.

Method

Interviews were requested from the following juvenile justice officials involved in the minor's case: the ASA who prosecuted the case (who is also the head prosecutor in the juvenile division of the state's attorney's office), the minor's public defender, the juvenile court judge who presided over the case, and the minor's probation officer. Each of these individuals consented to be interviewed. Interviews with the ASA, public defender, and juvenile court judge lasted approximately 50 minutes. The interview with the probation officer lasted approximately 30 minutes. The ASA and public defender participated in telephone interviews. Both interviews were audiotaped. The judge and probation officer participated in face-to-face interviews held at the county government

building, in the judge's office and a probation department conference room, respectively. These interviews were not audiotaped, as taping equipment was not permitted in the government building. For these interviews, the interviewer took notes during the interview, then wrote more detailed notes immediately following the interview.

Interviews were also requested from the following individuals involved in the minor's case: the minor himself, the minor's mother, the store clerk who was working the cash register when the minor robbed the convenience store, the sales manager of the convenience store, and the sales manager of the electronic appliance store. Of these individuals, the minor, the minor's mother, the convenience store clerk, and the sales manager of the electronic appliance store consented to be interviewed. The sales manager of the convenience store declined participation.

The interview with the minor took place at the medium security detention facility. The interview lasted approximately 50 minutes. The interview was not audiotaped (notes were taken during the interview, then detailed notes were taken after the interview). The interviews with the minor's mother, convenience store clerk, and the sales manager of the electronic appliance store took place over the telephone and were audiotaped. The interviews lasted approximately 20 to 30 minutes.

Question lists for the interviews (see Appendix A) were developed based on the EJJ section in the Illinois Juvenile Court Act (e.g., asking whether the case proceeded in accordance with the section, asking whether difficulties arose at certain points in the proceedings, etc.), newspaper articles pertaining to the case, and court records pertaining to the minor.

Court records pertaining to the minor were also used as an additional data source. The records were housed in the circuit court clerk's office and the probation department. The following information from the court records was obtained and incorporated into the report: dates of hearings, decisions on court motions, copies of petitions and motions, arrest reports, subpeonas, information regarding the minor's sentences, and the probation department's pre-sentence investigation.

Case Study Report

The minor's case is separated into five chronologically ordered time periods, each of which is described in a separate section below. This separation was developed based on case events, as reflected in court records pertaining to the minor, and adopted in an attempt to organize the events for this report. The sections below describe the following five time periods: (1) the EJJ petition and plea bargaining process, (2) the juvenile probation sentence, (3) the second arrest and the motion to declare EJJ unconstitutional, (4) the juvenile probation revocation hearing and post-conviction motions, and (5) the events after most of the post-conviction motions were denied. Table 3 provides a list of notable events in the minor's case and the dates on which the events occurred.

Descriptions of the events that occurred during these five time periods are preceded by a brief section describing several contextual factors that may help shed light on the criteria that were involved in the decision to prosecute the minor under EJJ, as well as the factors that may have contributed to the minor failing to complete his juvenile probation sentence.

Table 3: Events in the Minor's Case

EJJ Petition and Plea Bargaining Process	
Date	**Event**
June 12, 1999	The minor commits an armed robbery of a convenience store.
June 13, 1999	The minor is arrested and charged with Aggravated Robbery and Conspiracy to Commit Aggravated Robbery.
June 16, 1999	The state files a Petition for Adjudication of Wardship requesting that the minor be judged a ward of the court.
June 16, 1999	A detention hearing is held. The minor is ordered to be detained until trial.
June 29, 1999	A trial date is set. The trial is to be held on July 13, 1999.
July 9, 1999	The state files a petition to designate the trial as an EJJ proceeding.
July 9, 1999	The minor's public defender is assigned to the minor's case.
?	The ASA and public defender begin discussing the possibility of a plea agreement involving an EJJ sentence.
July 13, 1999	The trial date. However, the case is continued until July 22, 1999 because the two sides are engaged in the plea bargaining process.
Shortly after July 13, 1999	The ASA and public defender reach a plea agreement whereby the minor would receive an EJJ sentence. The sentence involves a two year juvenile probation sentence and a five year adult prison sentence.
Shortly after July 13, 1999	The minor accepts the plea agreement.
Shortly after July 13, 1999	The plea is presented to the judge in a conference conducted in accordance with Illinois Supreme Court rules
July 22, 1999	The new trial date. The minor pleads guilty. The case is officially designated as an EJJ prosecution. The minor waives his right to a jury trial. The judge continues the case until August 19, 1999 because he had not yet made a determination regarding whether to accept the plea agreement.
August 19, 1999	A hearing is held during which the judge accepts the plea agreement. The minor is convicted of Aggravated Robbery and Conspiracy to Commit Aggravated Robbery and given an EJJ sentence.
The Juvenile Probation Sentence	
Date	**Event**
August 19, 1999	The minor is placed on juvenile probation. He is released from jail and placed on home detention.
?	The minor completes a drug education program, attends AA meetings, begins a GED program.
October 14, 1999	The minor is moved to the least stringent level of home detention monitoring, allowing him to participate in structured, unmonitored activities.
The Second Arrest and Motion to Declare EJJ Unconstitutional	
Date	**Event**
October 14, 1999	The minor is arrested for stealing compact discs from an electronic appliances store and charged with Retail Theft.
October 18, 1999	The state files a petition to revoke the stay on the five year adult prison sentence. A hearing is held, during which it is determined that the minor will remain in jail until a revocation hearing is held. A revocation hearing is to be held on October 26, 1999.
October 26, 1999	The revocation hearing date. The public defender requests that the case be continued because he intended to challenge the constitutionality of EJJ. The request is granted.
November 8, 1999	The public defender files a motion to declare EJJ unconstitutional.

Table 3 (cont.): Events in the Minor's Case

The Second Arrest and Motion to Declare EJJ Unconstitutional Continued	
Date	**Event**
October 14, 1999	The minor is arrested for stealing compact discs from an electronic appliances store and charged with Retail Theft.
October 18, 1999	The state files a petition to revoke the stay on the five year adult prison sentence. A hearing is held, during which it is determined that the minor will remain in jail until a revocation hearing is held. A revocation hearing is to be held on October 26, 1999.
October 26, 1999	The revocation hearing date. The public defender requests that the case be continued because he intended to challenge the constitutionality of EJJ. The request is granted.
November 8, 1999	The public defender files a motion to declare EJJ unconstitutional.
November 16, 1999	The ASA files a response to the motion to declare EJJ unconstitutional.
December 3, 1999	Because the court continued the case while it considers the constitutionality of EJJ, the time limit for a juvenile revocation hearing has been exceeded. The minor is released from jail and placed on intensive home detention.
December 28, 1999	The judge denies the motion to declare EJJ unconstitutional.
The Juvenile Probation Revocation Hearing and Post-Conviction Motions	
Date	**Event**
January 13, 2000	A probation revocation hearing is held. The court finds by a preponderance of the evidence that the minor committed Retail Theft. The juvenile probation sentence is revoked.
January 13, 2000	The minor is sent to a maximum security adult prison.
January 25, 2000	The public defender files two post-conviction motions requesting that the minor be removed from adult prison and/or be allowed a trial for the retail theft charges.
January 26, 2000	A hearing is held to make decisions on the two post-conviction motions. The hearing is presided over by an adult court judge. The judge continues the case until it can be determined which judge should preside over post-conviction hearings.
?	It is determined that the juvenile judge will preside over post-conviction hearings, acting as a judge of general jurisdiction (i.e., using adult criminal code).
February 1, 2000	The two post-conviction motions are denied by the juvenile court judge, acting as a judge of general jurisdiction.
February 1, 2000	The public defender files a motion to vacate the plea agreement.

Table 3 (cont.): Events in the Minor's Case

Events After Most of the Post-Conviction Motions Were Denied	
Date	**Event**
February 8, 2000	The motion to vacate the plea agreement is denied by the juvenile court judge, acting as a judge of general jurisdiction.
February 16, 2000	The public defender files a notice of appeal.
February 18, 2000	The public defender files a motion to stay the adult sentence pending the appeal.
February 22, 2000	The motion to stay the adult sentence pending the appeal is denied by the juvenile court judge, acting as a judge of general jurisdiction.
November 21, 2000	The appeal is dropped. The minor dropped the appeal because, even if he won the appeal, he would likely have had to go through a new trial and, if found guilty, abide by a new sentence. The new sentence may have extended beyond his projected parole date. Therefore, he may have had to spend more time in the criminal justice system than if he simply completed the EJJ adult sentence. The minor had been transferred from the maximum security adult prison to a minimum security adult prison. The minor was placed on work release, violated the conditions of his work release, and was transferred to a medium security adult prison, where he resided at the time this report was being written.

Contextual Factors

Factors Predicting Success

The ASA, public defender, and the minor's probation officer all made complimentary statements about the minor, noted that they wished the outcome of the minor's case had been different, and believed that the minor had a good chance of succeeding while on juvenile probation. There are at least four reasons why these individuals may have spoken positively about the minor and the potential outcome of the minor's case: (1) the minor's personality, demeanor, and intellect, (2) the minor's criminal history record, (3) the offense may have been triggered by an unfortunate event in the minor's life, and (4) the minor seemed to have positive social support.

First, the minor has the ability to make a favorable impression upon those who meet him. During the interview, the minor was personable and displayed good social skills. He responded to interview questions articulately and appeared to have a strong

understanding of his situation. Thus, the minor's personality, demeanor, and intellect may have suggested to those involved in his case that he deserved a second chance and, if given a second chance, may be successful.

Second, the minor had no criminal history record prior to committing the armed robbery. Third, the minor's father had passed away shortly before the minor committed the armed robbery. The minor had been close to his father and, according to those involved in the minor's case, was deeply affected by the loss. This event in the minor's life may have made him more prone to exhibit impulsive, self-destructive behavior. Consistent with this, the minor began to use cocaine shortly before the armed robbery and had used cocaine with the co-defendants immediately prior to the armed robbery. Because the minor began to exhibit behaviors shortly after his father's death that he did not exhibit prior to his father's death (e.g., drug use, criminal behavior), those involved in the minor's case believed that the minor may be able to succeed if he were provided with services that would enable him to deal with the issues he was facing.

Fourth, an examination of the pre-sentence investigation conducted by the probation department prior to the minor's conviction revealed that the minor had been raised in a favorable family environment. The minor's parents had no history of criminal activity and had raised the minor in a caring, stable environment (e.g., the minor had never been abused, the family did not live in poverty, there was little family conflict or turmoil). More subjectively, the minor's mother made no statements during the interview which may indicate that parenting contributed to the minor's criminal behavior.

Other Impressions

On the other hand, during the interview with the minor, he made some open acknowledgements regarding his personality and nature that may have lead one to believe that he might be at-risk for future criminal behavior. He described himself as being impulsive and being prone to quick fits of anger, which may make him prone to committing offenses before he has time to pause and reflect upon the consequences. It should be noted that the minor was required to attend anger management classes as part of his juvenile probation sentence.

In addition, the minor described himself as a risk-taker who, given large amounts of unstructured time, is prone to engage in behaviors that may get him in trouble. It seems as if the minor understands the potential consequences of the behavior and that it is wrong to engage in the behaviors, yet believes that the benefits (should he avoid getting in trouble) and the enjoyment of taking the risk offset the potential consequences.

The minor was asked about the risks involved in engaging in behaviors that would suggest illegal behavior while serving the juvenile component of an EJJ sentence (e.g., the behaviors he engaged in at the electronic appliance store). While the minor denies that he stole the compact discs from the electronic appliances store, he does acknowledge that his behavior that day was risky. Despite the fact that the arrest resulted in negative consequences for the minor, he showed no regret that he chose to engage in a risky behavior that eventually had negative consequences. Instead, he was disappointed that he was arrested and that the court proceedings did not result in a more favorable outcome. Thus, despite the fact that the adult prison sentence was imposed, the minor still did not

seem to believe that the behavior was "too risky", given that he was serving an EJJ juvenile probation sentence.

The EJJ Petition and Plea Bargaining Process

This section is split into two sub-sections. The first sub-section describes the events that resulted in a plea agreement involving an EJJ sentence. The second sub-section describes interview respondents' thoughts on the sentence that the minor received.

Events Leading to a Plea Agreement

The minor committed the first offense on June 12, 1999, and was arrested for the offense approximately one or two days later. On June 16, 1999, the state filed a Petition for Adjudication of Wardship requesting that the minor be judged a ward of the court, as the minor was alleged to have committed the offense. The petition also described the offense (that the minor took $612, there were four other individuals involved in the offense, that two of the four other individuals were associated with gangs, and that the minors conspired to commit the offense) and requested that the minor remain detained until trial.

On June 16, 1999 a detention hearing was held in which probable cause was established and, as a result, the minor was ordered to be detained until a trial could be held. On June 29, 1999, a hearing was held in which the detention status of the minor was examined and a date was set for a sentencing hearing. The trial was to be held on July 13, 1999.

On July 9, 1999, several days before the trial, the ASA filed a petition to designate the trial as an Extended Jurisdiction Juvenile proceeding. The intent of the

petition was to establish that the case met the criteria for EJJ designation, as described in the EJJ section (that the offense would be a felony if committed by an adult, that the minor was at least 13 years of age when the offense occurred, and probable cause exists to believe that the minor committed the offense; see the glossary in Appendix B). The petition made reference to the June 16, 1999 Petition for Adjudication of Wardship alleging that the minor committed Aggravated Robbery and Conspiracy to Commit Aggravated Robbery (both offenses are felonies). The petition noted that the minor was 16 years old when the alleged offense occurred. Finally, the petition asserted that probable cause existed to believe that the minor committed the offense and, therefore, pursuant to the EJJ section, there is a rebuttable presumption that the trial should be designated an EJJ proceeding. The ASA concluded the petition by requesting that, in accordance with the EJJ section, there be a hearing within 30 days to establish probable cause that the allegations are true and, upon such determination, the case should be designated an EJJ prosecution and the minor should be sentenced in accordance with the EJJ section upon a plea, finding, or verdict of guilty.

Also on July 9, 1999, a motion was filed to appoint the minor a special public defender. The purpose of the motion was to assign the minor a new public defender. The motion was allowed. The public defender who was originally assigned the minor's case was also appointed the public defender for one of the other defendants involved in the offense, who was an adult at the time of the offense. Because the public defender was defending two individuals involved in the same offense, one in adult court and one in juvenile court, he or she was asked to withdraw from the minor's case. The public

defender's office has designated four public defenders as appointees when the initial defense attorney designation presents a conflict of interest. One of these public defenders was appointed to the minor's case on July 9, 1999.

Thus, the minor's public defender was officially appointed to the case on the same day that the EJJ petition was filed. This could conceivably have worked to the minor's disadvantage (i.e., given the novelty of EJJ, the public defender may not have had time to adequately rebut the EJJ petition). However, prior to being appointed to the case, the public defender was aware that he would be handling the case and that the state would be requesting an EJJ prosecution. The ASA reported that, prior to July 9, 1999, she and the public defender had been discussing the possibility of reaching a plea agreement whereby the minor would plead guilty to Aggravated Robbery and Conspiracy to Commit Aggravated Robbery and receive an EJJ sentence.

The public defender acknowledged that conversations between himself and the ASA had taken place prior to the court officially designating him as the minor's attorney. However, he had never defended a case involving EJJ. Thus, he began by acquainting himself with the EJJ section, then considering what an appropriate EJJ sentence for the minor would be. According to the public defender, the plea bargaining process began in earnest after the EJJ petition was filed.

When asked why she believed that an EJJ sentence would be appropriate for the minor, the ASA stated that she believed she had a strong case against the minor and that, given the serious and violent nature of the offense, the case should not be treated like a typical juvenile case. The ASA stated that she knew, upon receiving the case, that she would petition for either EJJ or a transfer to adult court. She stated that she opted for EJJ

because the minor had no previous delinquency history and because the recent death of the minor's father may have been related to his delinquent behavior.

The ASA further stated that she reserves transfers to adult court for cases where the community may be at risk (i.e., the minor, if released, would be apt to commit another crime) or the minor has exhibited a pattern of delinquent behavior. In her opinion, the minor did not fit these criteria. Moreover, the ASA believed that, had she petitioned for a transfer to adult court, the petition would have been denied.

The public defender agreed that the state would not have been successful in getting the case transferred to adult court. In his opinion, a petition to have the case transferred to adult court would have been denied based on the nature of the offense and fact that the minor had no previous delinquency history. The public defender acknowledged that the minor's offense was serious and violent yet, while making it clear that he did not excuse the minor's behavior, emphasized that the offense did not involve a real gun and that no one got hurt as a result of the offense.

Thus, the reason that the public defender engaged the ASA in a plea bargaining process that involved an EJJ sentence was not because he believed that the case may be transferred to adult court, where the minor would potentially receive a more severe sentence than under EJJ. When asked why he opted to present a plea involving EJJ to the minor, the public defender stated that his understanding of the EJJ section led him to believe that there was little he could do to prevent the state from designating the case an EJJ prosecution. The minor's case met the criteria described in the section (felony offense, minor is at least 13, probable cause established) and, thus, would likely be designated an EJJ prosecution.

According to the public defender, given this limitation, he attempted to bargain for an EJJ sentence that best served the minor. The public defender also stated that cases like the minor's reveal how advantageous the EJJ section can be to the state. The state can petition the court for an EJJ prosecution for cases in which the minor is arrested for a fairly serious offense, but would likely not get transferred to adult court. For such cases, EJJ provides the state with an additional tool to assist them in providing severe sanctions to minors. Moreover, the defense can do little do prevent the EJJ designation. If minors are found guilty of a new offense, no matter how minor, the court must impose the adult sentence. The public defender stated that, in retrospect, if he were to have handled anything differently in the case, it may have been to question the constitutionality of EJJ prior to the original disposition.

The public defender also presented the minor as potentially a victim of circumstance. He noted that, approximately one month prior to minor's offense, a similar, albeit more serious, juvenile offense had occurred in the county. Because the minor's offense followed this other offense, the state may have been more receptive to punitive options, in an attempt to appease public concern over juvenile crime and send a message throughout the community that such offenses will not be tolerated. The minor's offense may have been, as the public defender put it, "unfortunate timing of an unfortunate act". The public defender stated that he was aware of instances when other minors committed robberies and were treated as juveniles (i.e., had their case resolved in juvenile court via a juvenile sentence).

Overall, the public defender opted not to rebut the EJJ petition in court. Nor did he explore the possibility of bargaining for a plea that did not involve EJJ. In his mind,

the options were to accept a plea agreement involving EJJ or take the case to trial with the understanding that the minor would receive an EJJ sentence if he were found guilty. He worked out a potential plea agreement with the ASA that involved an EJJ sentence, then took the agreement to the minor.

The minor and the minor's mother both reported that the public defender did in fact present two options to them: that the minor could go to trial or accept the state's offer. The public defender then explained EJJ and the nature of the plea agreement. The minor and the minor's mother both noted that the public defender let them make the decision, but presented EJJ as an opportunity for the minor to avoid prison or juvenile detention. According to the minor, the public defender noted that, should he go to trial, the sentence could either be more lenient or more severe than the agreement offered by the ASA. Thus, he decided not to gamble and, therefore, accepted the plea agreement. The minor reported that, when the plea agreement was presented to him, he understood the concept of EJJ but was unclear on what constituted a violation severe enough to necessitate the imposition of the adult sentence. The minor's mother agreed that the minor was unclear about what constituted an offense that would necessitate the adult sentence. The minor's and the minor's mother's comments on this topic will be described in more detail later in the report (in the section entitled "Opinions on EJJ").

Perhaps because both sides were engaged in the plea bargaining process, but a plea agreement had not yet been reached, the public defender moved during the trial hearing on July 13, 1999, that the case be continued. The judge granted this motion. The defense attorney also waived timelines for a trial. Although there are some exceptions, for the most part, the Illinois Juvenile Court Act requires that detained minors be granted

a trial within 30 days of their detention hearing (705 ILCS 405/5-601 (4)). As of July 13, 1999, the minor had been detained for approximately 30 days. However, defense attorneys may file a motion to delay the trial beyond the 30 day deadline, and the minor's public defender exercised this right (705 ILCS 405/5-601 (8)).

The ASA reported that she came to court on July 13, 1999, prepared to both establish probable cause so that the case could be designated an EJJ prosecution and to proceed with the trial. Consistent with this, the ASA had sought more condemning evidence against the minor. Because the perpetrator of the armed robbery had been wearing a mask, the ASA requested that a hair sample be taken from the minor, to compare to hair samples taken from the mask (police confiscated the mask and pellet gun used by the minor).

Shortly after the July 13, 1999 hearing, the ASA and public defender reached a plea agreement. The minor agreed to plead guilty to the original charges of Aggravated Robbery and Conspiracy to Commit Aggravated Robbery and accept an EJJ sentence. The EJJ sentence involved a two year juvenile probation sentence and two concurrent terms of five years and two years in the Illinois Department of Corrections for Aggravated Robbery and Conspiracy to Commit Aggravated Robbery, respectively (see the glossary in Appendix B). The ASA and public defender both stated that the plea bargaining process focused almost exclusively on the nature of the EJJ sentence and not on whether the case should be sentenced under EJJ. Nor, according to the ASA and public defender, did they discuss the possibility of the minor pleading guilty to lesser offenses.

Both the ASA and public defender reported that the plea agreement was easy to reach. The ASA believed that perhaps this was because she and the public defender had a great deal of experience in plea bargaining. The public defender stated that the plea agreement was easy to reach because he did not believe that the ASA would be receptive to a more lenient counter offer on his part. He believed that the offer presented to him by the ASA was as far as she was going to yield. Upon receiving the offer, the public defender simply took the offer to minor, who accepted it. Thus, according to the public defender the plea bargaining process was quick and easy because the ASA made an offer and the minor accepted the offer.

The plea was presented to the judge in a conference conducted in accordance with Illinois Supreme Court Rules (Article IV, Rule 402 (d) (2)). The judge stated during the conference that he would accept the plea conditionally. In accordance with the procedures described in the Supreme Court rules, a judge's acceptance of a plea is contingent upon his or her receiving and examining evidence in aggravation or mitigation, then determining that the evidence was consistent with the plea (see the glossary in Appendix B). The aggravating and mitigating evidence was presented to the judge in the form of a pre-sentence investigation completed by the county's probation department, which included information on the offense, as well as information on the minor's social history, school performance, history of drug and alcohol use, and employment history.

In addition to examining factors of aggravation and mitigation in order to determine the appropriateness of the plea, it was also necessary for the judge to consider whether EJJ was an appropriate sentencing option for the minor. The EJJ section in the

Illinois Juvenile Court Act describes the factors that the judge is to consider when deciding whether to allow an EJJ prosecution. The section states that judges may deny a request for an EJJ prosecution even if the minor is 13 years of age, and there is probable cause to believe that the minor committed a felony offense. The judge may deny the petition if there is clear and convincing evidence that some aspect of an EJJ sentence would be inappropriate for the minor based on the following factors: the seriousness of the offense, the minor's history of delinquency, the age of the minor, the culpability of the minor in committing the alleged offense, whether the offense was committed in an aggressive or premeditated manner, and whether the minor used or possessed a deadly weapon when committing the alleged offense (705 ILCS 405/5-810 (1) (b)). When considering these factors, the judge is to give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency.

On July 22, 1999, a hearing was held in which the minor pled guilty to the charges described in the Petition for Adjudication of Wardship and the EJJ petition. The case was also officially designated as an EJJ prosecution at this hearing. The judge agreed that there was probable cause to believe that the minor committed the offense and did not find clear and convincing evidence to deny the EJJ prosecution, based on the factors listed in the section.

The judge stated that one of his concerns when he was presented with the plea agreement was whether the minor and his family fully understood the EJJ sentence. The Illinois Supreme Court rules regarding plea agreements require judges to fully warn defendants who plead guilty of the consequences they are facing (Article IV, Rule 402 (d) (2)). The judge stated that, given the relatively unique nature of EJJ, this warning

became particularly important in the minor's case. He stated that he fully warned both parties regarding the nature of EJJ prosecutions and sentences, but particularly emphasized the consequences to the minor if there was a new offense.

The EJJ section states that the defense can rebut the presumption that the case should be designated as an EJJ prosecution. The ASA, public defender, and judge all stated that, because a plea had been reached, there were no arguments at the July 22, 1999, hearing regarding whether the case should be designated an EJJ prosecution. In addition, the EJJ section allows the minor the right to trial by jury. The minor waived this right during the July 22, 1999 hearing.

The minor was not sentenced during the July 22, 1999, hearing because the judge had not yet made a decision regarding aggravating and mitigating factors (in accordance with Illinois Supreme Court rules). However, it was agreed upon that if the judge examined the evidence in the pre-sentence investigation and recommended an alternative EJJ sentence, then both sides had the right to vacate the plea (see the glossary in Appendix B). The ASA noted that this rarely occurs.

The judge accepted the plea agreement and, on August 19, 1999, the minor was convicted of Aggravated Robbery and Conspiracy to Commit Aggravated Robbery and sentenced to an EJJ sentence whereby he received a two year juvenile probation sentence and two concurrent prison terms of five years and two years, to be stayed and not imposed should the minor successfully complete the juvenile sentence. The judgment order written by the judge noted that he had looked at aggravating and mitigating factors. In the order, the judge noted that the minor had no history of prior adjudication or delinquency (mitigating factors), but that the minor's conduct caused or threatened

serious harm (aggravating factor) and, therefore, the sentence is necessary in order to deter others from committing the same crime. The order also noted that a sentence involving imprisonment or periodic imprisonment is necessary for the protection of the public.

Opinions on the EJJ Sentence

The ASA, public defender, the minor, the minor's mother, and the convenience store clerk were asked whether they believed the minor's EJJ sentence was fair and appropriate.

The ASA stated that the plea agreement was fair. She stated that she may have threatened to try to take the case to adult court or to seek a more punitive EJJ sentence, but that the threats were merely part of the plea bargaining process (intended to ensure that the minor was held fully accountable for his actions). In fact, she stated that she really believed the EJJ sentence was appropriate for the minor. The seriousness of the offense led her to believe that the minor's case should not be treated like a typical juvenile case. In fact, she stated that she has prosecuted cases in the past in which she sought prison sentences for lesser offenses. Yet, she believed that, because the minor had no prior delinquency history and was dealing the death of his father, it was appropriate to give the minor a second chance.

On the other hand, the public defender spoke less positively about the EJJ sentence. He reported that the plea agreement was the best option under the circumstances, as it would have been more risky to go to trial or to let the judge decide the disposition. Under those circumstances, there may have been a greater likelihood of the minor receiving a disposition that would necessarily involve a prison sentence.

The minor also believed that the EJJ sentence was the best option under the circumstances. He emphasized that it provided him with the opportunity to stay out of prison or juvenile detention. The minor did not speak negatively about having received an EJJ sentence as opposed to simply receiving, for example, a juvenile probation sentence. Nor did the minor believe that the lengths of the juvenile and adult sentences were unfair.

The minor's mother also agreed that the EJJ sentence provided the minor with a good opportunity to avoid prison or juvenile detention. She was satisfied with the lengths of the juvenile and adult sentences. She was also quite satisfied with how the minor was treated by everyone who was involved in the EJJ plea agreement process: the public defender, the ASA, and the judge. She stated that she spoke to the ASA, who expressed sympathy over the death of the minor's father and told her that, because the death was likely a causal factor in the minor's criminal behavior, EJJ had seemed like a good option.

The convenience store clerk who was victimized by the minor in the armed robbery stated that the offense frightened her and, for a time, made it difficult to continue working at the store. Nonetheless, as of the date of the interview, she continued to work at the store. However, until several months prior to the interview, she had stopped working late shifts at the store. Now, she occasionally works later shifts, but still (approximately 20 months after the offense) prefers to work earlier shifts. The offense seems to have had an impact on the store clerk's work behavior.

However, when asked her opinion of the EJJ sentence, the store clerk did not respond as a victim seeking sanctions as a means of vindication for the minor's behavior.

The tone of the store clerk's response did suggest that she resents having been victimized by the minor. Yet, when considering the appropriateness of the minor's EJJ sentence, she cited factors related to the minor (as opposed to the severity of the offense or the fact that the offense was perpetrated against her). Specifically, she stated that, because the minor was 16, he should have known that his behavior was inappropriate. However, she continued, the EJJ sentence gave the minor a second chance to avoid going to prison and, if the minor had no prior record, then maybe he deserved the second chance.

The Juvenile Probation Sentence

The minor received a two year probation sentence, to be terminated on August 17, 2001. After the August 19, 1999 hearing (during which the minor was convicted), the minor was released from juvenile detention and placed on home detention. He was placed on the home detention unit's most intensive level of monitoring, involving random on-site and telephone contacts and electronic monitoring. The minor was to reside in his mother's home and have no outside activities except for school, counseling, and work. The minor was ordered to keep his guardian informed of all home detention rules and curfews. The minor was also ordered not to have contact with the other individuals involved in the commission of the armed robbery.

The probation order included some general conditions that are likely imposed on most probationers (e.g., report to the probation department as directed, report changes of residence, remain in the state of Illinois, possess no weapons, submit to recommended drug tests, etc.). In addition, the minor was ordered to stay away from the convenience store where the robbery took place. He was also ordered make amends for his actions by paying restitution to the store and by writing a letter of apology to the clerk who was

working at the time of the offense. The offenders split the money that was stolen from the convenience store. The minor was required to pay the store for his portion of the stolen money and for other expenses associated with the offense, by January 19, 2000.

In addition, the minor was ordered to enroll in or attend either high school or an alternative education program to obtain his GED (the minor had been attending high school prior to the offense). He was required to seek and maintain full or part-time employment and to obtain his driver's license (this order is related to a previous incident in which the minor was stopped by a police officer while driving a vehicle without a license).

Finally, the minor was sentenced to various types of counseling, treatment assessments, programs, and program assessments. The minor was sentenced to individual counseling, grief counseling (to help him cope with the death of his father), and anger management training. In addition, he was to complete an assessment for drug and alcohol treatment. He was to complete a peer group program, intended to build social and life skills. Finally, the minor was required to complete an assessment for the county's day reporting center, which offers various programs including life skills training and behavior management training.

Thus, the probation order included a fairly large number of conditions. The minor and the minor's mother were asked to comment on the conditions of the minor's juvenile probation sentence. The minor spoke negatively of the number of conditions, stating that it placed too much responsibility on him (implying that this may have set him up for failure). The minor's mother stated that she was satisfied with the conditions of the

minor's probation sentence. She believed that it provided him with services that he needed.

At the outset of the probation sentence, the minor was successful in completing his probation conditions. The minor's probation officer reported that the minor had office visits every two weeks and that he made numerous visits to the minor's home. The officer reported that the minor had no problems attending office visits and was present during home visits.

Although the minor was only on probation for a short period of time (he was re-arrested approximately two months after the probation sentence began), he seems to have accomplished a great deal in that time. The officer prioritized drug treatment over the other types of counseling and programs mandated by the court. The minor successfully completed a drug education program during the two months he was on juvenile probation. The probation officer stated that the minor had started working towards his GED and had started driving school. The minor attended Alcoholics Anonymous meetings while on juvenile probation. The probation officer stated that the only problem he had with the minor while he was on probation involved a small family issue, which required him to intervene by speaking to the family collectively.

By the time the minor was arrested for retail theft, he had moved from the most stringent level of home detention monitoring to the least stringent level of home detention monitoring. Both levels of monitoring require frequent office visits and random on-site and telephone contacts. However, the least stringent level of monitoring does not require electronic monitoring. Moreover, the least stringent level of home detention monitoring allowed the minor to participate in structured activities without a parent if he requested

and received permission from his parents and home detention staff at least 24 hours prior to the activity. In fact, the day he was arrested for the new offense was the first day in which he was allowed to participate in such activities. Thus, perhaps the minor's initial success on juvenile probation could partially be attributed to high levels of monitoring.

The probation officer reported that he handled the minor's case differently than he does other probation cases. The potential consequences to the minor for unsuccessful probation performance led the officer to be more cautious and to monitor compliance more closely. According to the officer, even slight breeches of probation conditions were made clear to the minor. The officer reported that he was strict with the minor, so that the minor would be clear as to what he had to do to abide by his probation conditions.

The officer was given some discretion as to the handling of technical violations. The minor was placed in the county's administrative sanctions program. This program provides probation officers leeway to handle minor probation infractions themselves, as opposed to filing a probation violation and referring the minor to court. Instead, officers can determine their own additional sanctions, while allowing probationers the opportunity to avoid the possibility of probation revocation in court. This flexibility seems particularly important for the minor's case, as the potential consequences for violations were severe.

However, the EJJ section in the Illinois Juvenile Court Act provides little flexibility when the probation violation is for a new offense. The probation officer reported that, after he became aware of the new arrest, he had no choice but to file a probation violation and refer the minor back to court.

Second Arrest and Motion to Declare EJJ Unconstitutional

This section is separated into two sub-sections on the following topics: (1) the events preceding the minor's revocation hearing, and (2) issues raised in the public defender's motion to declare EJJ unconstitutional.

Events Preceding the Revocation Hearing

The minor was arrested for stealing compact discs from the electronic appliance store on October 14, 1999. On October 18, 1999, the ASA filed a motion to revoke the stay on the adult sentence. A hearing was also held on October 18, 1999 during which it was noted that the minor was in the county jail and would remain in jail pending a revocation hearing. This hearing was not a detention hearing. That is, the court did not consider, pursuant to the Illinois Juvenile Court Act requirements for detention hearings, evidence that would establish probable cause that the minor had committed the new offense (705 ILCS 405/5-501). Nor did the court consider the appropriateness of detaining the minor for his safety and/or the safety of the community. As will be described below, the fact that the EJJ section does not provide for a detention hearing after the alleged commission of a new offense was one point that the public defender made to argue that the EJJ section is unconstitutional.[9]

A hearing was not held to determine whether the stay on the minor's adult sentence should be revoked until January 13, 2000. This delay occurred because the

[9] The minor was 17 when he was arrested for stealing the compact discs. Thus, according to Illinois law, he was an adult (Illinois defines a juvenile as someone under the age of 17). However, the public defender noted that his argument still stands, as adults are granted bond hearings and the EJJ section does not provide for a bond hearing when minors sentenced under EJJ become an adult, then commit a new offense.

public defender filed a motion to declare EJJ unconstitutional, then filed a motion that the case be continued so that the court could resolve this matter before deciding whether to impose the adult sentence. Because of this delay, the minor was released from jail prior to the revocation hearing. He was released on December 3, 1999, and placed on intensive home detention supervision, with random on-site and telephone contacts and electronic monitoring.[10] Thus, the minor was released even though no detention hearing had been held.

The original revocation hearing date was set for October 26, 1999. The public defender made a motion to the court during the October 26, 1999 hearing that the case be continued. The public defender declared during this hearing that he intended to challenge the constitutionality of the EJJ section and requested that the case be continued until the constitutionality issue was resolved.

The public defender filed the motion to declare EJJ unconstitutional on November 8, 1999. The ASA filed a response to the motion on November 16, 1999. Also on November 16, 1999, a hearing was held in which it was determined that the case would be continued until the constitutionality issue was resolved. The judge granted the public defender three days to reply to the state's response. The public defender made no further reply. On December 28, 1999 the judge denied the motion to declare EJJ unconstitutional. A revocation hearing was held on January 13, 2000.

Issues Raised in the Motion to Declare EJJ Unconstitutional

[10] The EJJ section in the Illinois Juvenile Court Act states that, when minors are given an EJJ sentence, they are assigned to juvenile court until the stay on their adult sentence is revoked. However, given that the minor was an adult when the new offense was committed, there may have been some ambiguity as to whether the minor should be assigned to juvenile or adult probation. This was not the case. The probation department has a separate home detention unit that monitors both juvenile and adult home detention. Thus, the minor was not placed on either juvenile or adult probation.

The public defender made several arguments in his motion to declare EJJ unconstitutional. What follows is a description of each of the arguments that appeared in the written motion, followed by the ASA's and the judge's response to the argument. Table 4 summarizes this information.

The description of the public defender's arguments was obtained not only from his written motion, but also from interview questions intended to obtain more detailed information about the arguments. Similarly, the ASA filed a written response to the public defender's motion, but was also asked interview questions pertaining to the public defender's arguments. The judge's responses to the arguments came exclusively from interview responses. Table 4 indicates that the ASA's and judge's responses are very similar.

Table 4: EJJ Constitutionality Issues

Issue	Public Defender's Argument	Assistant State's Attorney's Response	Judge's Response
Violates defendants' due process rights	The EJJ section violates Constitutional vagueness standards and, thus, violates defendant's due process in the following three ways: 1. The EJJ section lacks clarity on what constitutes a new offense that is sufficient to revoke the stay on an adult sentence. This forces triers of fact to rely on their own opinions.	1. The Illinois Criminal Law and Procedures manual provides clear definitions of all criminal offenses, the commission of any of which is sufficient to revoke the stay on the adult sentence. The minor was admonished of this by the judge.	1. Noted that because of the uniqueness of EJJ and the potential consequences to the minor, he made certain that the minor was clear as to what constituted an offense sufficient to revoke the stay on the adult sentence.

Table 4 (cont.): EJJ Constitutionality Issues

Issue	Public Defender's Argument	Assistant State's Attorney's Response	Judge's Response
Violates defendants' due process rights continued	2. The EJJ section lacks clarity on court procedures after minors sentenced under EJJ are arrested for new offenses. In particular, the EJJ section does not explicitly provide for a detention hearing or timelines for a revocation hearing. 3. By lacking clarity on court procedures, defendants' First Amendment rights are violated, as the state is not required to prove beyond a reasonable doubt that the minor committed a new offense (the standard is by a preponderance of the evidence). This makes it difficult for defendants to express themselves in court.	2. The Illinois Juvenile Court Act provides guidelines for revocation hearings (including guidelines for detention hearings and timelines for the revocation hearings). Hearings to revoke the stay on an EJJ adult sentence are revocation hearings and, therefore, should be subject to these guidelines. 3. The Illinois Juvenile Court Act section pertaining to revocation hearings clearly states that the standard of proof is by a preponderance of the evidence. This standard should apply to hearings to revoke the stay on an EJJ adult sentence.	2. The Illinois Juvenile Court Act provides guidelines for revocation hearings (including guidelines for detention hearings and timelines for the revocation hearings). Hearings to revoke the stay on an EJJ adult sentence are revocation hearings and, therefore, should be subject to these guidelines. 3. The Illinois Juvenile Court Act section pertaining to revocation hearings clearly states that the standard of proof is by a preponderance of the evidence. This standard should apply to hearings to revoke the stay on an EJJ adult sentence.
Violates equal protection	The EJJ section creates a special class of offenders who are treated like (and provided with the rights of) neither juveniles or adults.	The intent of equal protection guarantees is so that distinct classes of offenders are not discriminated against by the court system. The EJJ section treats all juveniles the same. Moreover, the EJJ section is quite clear on when a case should be under the jurisdiction of the juvenile court system or the adult court system.	The intent of equal protection guarantees is so that distinct classes of offenders are not discriminated against by the court system. The EJJ section treats all juveniles the same. Moreover, the EJJ section is quite clear on when a case should be under the jurisdiction of the juvenile court system or the adult court system.
Violates single subject rule	Legislation must encompass only one subject, but the EJJ section addresses both juvenile and adult court procedures. Moreover, the EJJ section also violates the single subject rule by addressing procedures pertaining to trials, sentences, and revocation hearings.	The EJJ section is included in the Illinois Juvenile Court Act, which clearly confines itself to one topic: the juvenile court system.	The EJJ section is included in the Illinois Juvenile Court Act, which clearly confines itself to one topic: the juvenile court system. The single subject rule is intended for instances when sections cover vastly different topics.

Table 4 (cont.): EJJ Constitutionality Issues

Issue	Public Defender's Argument	Assistant State's Attorney's Response	Judge's Response
Violates separation of powers	The EJJ section mandates judges to invoke the adult sentence after it has been determined by a preponderance of the evidence that the minor has committed a new offense. This is undue legislative influence over judicial matters.	The EJJ section is quite clear that the commission of any new offense will result in a revocation of the juvenile sentence. The minor was fully admonished that this was the case.	The EJJ section is no different from other sections that take discretion away from judges. For example, the laws governing automatic transfers to adult court take discretion away from judges. These laws have passed constitutional tests.

The public defender made five arguments in the motion: (1) that EJJ violates due process against vagueness, (2) that EJJ violates due process per the U.S. Constitution and the Illinois Constitution, (3) that EJJ violates equal protection guarantees in the U.S. Constitution and Illinois Constitution, (4) that EJJ violates the single subject rule governing the content of legislation, and (5) that EJJ violates the doctrine of separation of powers provided by the U.S. Constitution and the Illinois Constitution.

Argument #1 and Argument #2: due process violations. The public defender's first two arguments are related. The public defender argued that the EJJ section is vague and, as a result, violates defendants' due process rights (see the glossary in Appendix B) per the U.S. Constitution and the Illinois Constitution (due process clauses can be found in the Fifth and Fourteenth Amendments to the U.S. Constitution and in Article 1, Section 2 of the Illinois Constitution). He cited the Garrison test for vagueness that was held by the Illinois Supreme Court, which states that: (1) legislation must not be so vague that men of common intelligence must guess at its meaning and application, (2) legislation must provide a definite standard for law enforcement officials and triers of fact such that its application does not depend upon private conceptions, and (3) if the

section implies First Amendment rights, then the section must not be so vague as to chill their exercise (see the glossary in Appendix B; People v. Garrison, 1980). Should a section fail to meet these criteria, then it violates due process guarantees.

The public defender argued that the EJJ section fails to meet each requirement of the Garrison test and, as a result, violates defendants' due process rights. According to the public defender, the EJJ section fails to meet the first two Garrison test requirements by lacking clarity in the following areas: (1) what constitutes an offense sufficient to revoke the stay on the adult sentence, (2) court procedures, should minors receiving EJJ sentences be arrested for a new offense. Furthermore, by lacking clarity on court procedures after minors are arrested for new offenses, the EJJ section allows courts to impose an adult sentence upon a minor for the commission of a new offense, while not establishing beyond a reasonable doubt that the minor committed the offense. This chills defendants' First Amendment rights and, as such, the EJJ section fails to meet the third requirement of the Garrison test. These three issues (lacking clarity on what constitutes a new offense, lacking clarity on post-arrest court procedures, violating First Amendment rights) will each be discussed in more detail below.

Issue #1: lacking clarity on what constitutes a new offense. The public defender argued that the EJJ section is not clear on what constitutes an offense that is sufficient to revoke the stay on the adult sentence and, thus, courts are left to rely on their own opinion. Specifically, the EJJ section only states that the court may issue a warrant for the arrest of a minor who is alleged to have committed a new offense and, upon finding by a preponderance of the evidence that the minor committed the new offense, shall impose the adult sentence (see the glossary in Appendix B). However, the section does

not distinguish between particular types of offenses (e.g., murder vs. theft vs. vandalism, etc.) According to the public defender, this violates due process by forcing judges to rely on their own opinion as to what constitutes an offense sufficient to revoke the stay on the adult sentence. Moreover, it prevents defendants from being able to discern their rights and obligations (e.g., the minor claims that he did not know that retail theft was an offense which was sufficient to revoke the stay on the adult sentence).

The ASA responded to this by pointing out that the Illinois Criminal Law and Procedures manual provides clear definitions of all criminal offenses (Chapter 720). In her opinion, it is clear from the EJJ section that the commission of any offense listed in the manual provides sufficient grounds for revocation.

Moreover, irrespective of the language used in the EJJ section, both the judge and the ASA stated that the minor should have understood what constituted a new offense. The minor was warned in court as to what constitutes an offense. In fact, the ASA noted that, when the minor was warned by the judge during the hearing on August 19, 1999, the judge specifically used retail theft as an example of an offense that would result in the imposition of the adult sentence.

In addition, the ASA stated that, in her opinion, the fact that the minor is on probation should provide heightened awareness that he ought to abide by the rules of society and that even small breeches of the law could result in negative consequences. Theoretically, the ASA continued, this heightened awareness is one of the purposes of probation.

Issue #2: lacking clarity on post-arrest court procedures. The public defender argued that the section of the EJJ section describing court procedures when a minor who receives an EJJ sentence is arrested for a new offense lacks clarity and omits guidelines on several important aspects of the court process (705 ILCS 405/5-810 (6)). As a result, the section violates the first two requirements of the Garrison test. Specifically, the public defender argued that this section of the EJJ section lacks clarity or omits guidelines on detention hearings, and on timelines for revocation hearings.

The EJJ section states that if a minor is alleged to have committed a new offense, then the court may issue an arrest warrant. According to the public defender, if the court issues an arrest warrant and the minor is apprehended, then the minor should have a right to a detention hearing. However, the EJJ section does not specify this right. Consistent with this, even though the minor had a warrant issued for his arrest, he was not provided with a detention hearing. In addition, the public defender noted that the EJJ section provides no timeline for a revocation hearing after a warrant is issued. These two omissions violate defendants' due process rights.

Both the ASA and the judge disagreed with these arguments. They both stated that the Illinois Juvenile Court Act provides clear guidelines for probation revocation hearings and the minor's revocation hearing should be subject to the same guidelines (705 ILCS 405/5-720). Moreover, the guidelines for probation revocations in the Illinois Juvenile Court Act describe how detention hearings should be handled and include timelines for revocation hearings.

The probation revocation guidelines in the Illinois Juvenile Court Act clearly provide minors with the right to a detention hearing. Yet, a detention hearing was not

held after the minor was arrested for retail theft. The ASA noted in her response to the motion to declare EJJ unconstitutional that an arrest warrant was issued *after* the minor was arrested for retail theft. Thus, the arrest warrant was issued after the minor was already apprehended. The warrant was issued after the minor was taken from the electronics appliances store to the police station. There, the police officers who arrested the minor realized that he had been sentenced under EJJ. They informed the court that the minor had been arrested (the court may already have known, as the minor stated that his mother informed his probation officer after she found out he had been arrested). The court responded by issuing an arrest warrant. This may seem redundant (why issue an arrest warrant for someone who is already arrested?). However, there was a reason that the court issued the warrant. The purpose of the warrant was to order the detainment of the minor until the matter could be considered by the court. Thus, the arrest warrant circumvented the possibility of the police department dropping the charges against the minor or choosing to resolve the matter outside of the court system. Pursuant to the arrest warrant, the minor was detained in the county jail.

The ASA argued that, in situations like the minor's, precedent has stated that a detention hearing would result in unnecessary duplication. Specifically, in her response to the motion to declare EJJ unconstitutional, the ASA cited an Illinois Appellate Court decision stating that if a court makes an "urgent and immediate" decision to detain a minor pursuant to a warrant, then no detention hearing is required because it "would result in an unnecessary duplication of court effort" (People v. D.T. , 1997).

Issue #3: First Amendment violations. The public defender noted that, according

to the EJJ section, in order to revoke the stay on an adult sentence, a hearing must be held to determine whether a preponderance of the evidence indicates that the minor committed the offense. However, other minors (i.e., minors who had not been convicted in an EJJ prosecution) who commit offenses would be granted the right to a hearing with a greater standard of proof (beyond a reasonable doubt; see the glossary in Appendix B). Thus, minors who had been convicted in an EJJ prosecution may have the stay on their adult sentences revoked while still being presumed innocent of the offense by the typical standard. Because the EJJ section does not require the state to prove that minors are guilty beyond a reasonable doubt, minors are unable to fully defend and express themselves in court. This, to continue the public defender's argument, violates defendant's First Amendment rights.

Conceivably, the state could continue with a case and prosecute a minor *after* the stay on the adult sentence is revoked. That is, the state could see to it that the adult sentence is imposed, then officially try the minor for the new offense in the context of an actual trial as opposed to a revocation hearing. In such a trial, the standard of proof would be beyond a reasonable doubt (and, hence, there would be no ambiguity as to whether the minor's First Amendment rights were violated). However, the public defender noted that it would not be in the interest of the state to try a minor for the offense after the EJJ adult sentence has been imposed. The public defender stated that the state likely realizes that, if the minor is found guilty beyond a reasonable doubt, the sanctions may not be as severe as the EJJ adult sentence. Moreover, the sanctions would run concurrent to the EJJ adult sentence, as opposed to being "tacked on" to the adult sentence. For example, if a minor were serving a five year EJJ adult prison sentence, the

state would have to convict the minor beyond a reasonable doubt, then hope that the minor is given a prison sentence greater than five years. In lieu of this, the minor would likely not, in actual terms, receive a lengthier prison sentence. Or, even if the minor is given additional sanctions that are more punitive than the EJJ adult sentence, it still may not be worth the state's time and effort (e.g. if the additional sanctions are for six years, while the EJJ sentence is for five years). Thus, according to the public defender, not only is the standard of proof for EJJ revocation hearings too lenient, given the potential consequences to minors, but the severity of the EJJ adult sentence makes it unlikely that the state will proceed with the case in a manner that fully allows minors to express themselves in court.

The ASA responded to this by noting that the Illinois Juvenile Court Act makes it quite clear that the standard of proof at probation revocation hearings is a preponderance of the evidence (705 ILCS 405/5-730(3)). The hearing to revoke the stay on the adult sentence was a revocation hearing and, therefore, subject to the same standard of proof as other revocation hearings. This standard has passed constitutional tests. Moreover, the ASA noted that the minor was warned by the court as to the consequences of any new offense. The judge agreed with the ASA that these were sufficient grounds to reject the public defender's arguments (i.e., the judge raised these same points during the interview).

The ASA also stated that even though the standard of proof at the revocation hearing was a preponderance of the evidence, she believed that the evidence was strong and she could have proven her case beyond a reasonable doubt. She also stated that she treated the hearing much like she would have treated a real trial.

Another due process issue. The public defender also described a worst case scenario in which the three issues described above act in concert to create severe due process violations. To use an example provided by the public defender, a police officer who knows a minor is serving an EJJ sentence could specifically target the minor for a new offense and charge the minor with a traffic violation. The state could then establish that the minor more likely than not committed the violation, then dismiss the charges once the minor has had the stay on his or her adult sentence revoked.

The ASA countered the example used by the public defender by noting that the Illinois Juvenile Court Act includes a section on concurrent jurisdiction, which states that a traffic violation would be under the jurisdiction of a different court and the minor would be subject to punishment under the guidelines established by that court and, therefore, not subject to punishment under the Illinois Juvenile Court Act.

However, the public defender's argument still stands if one presumes that a police officer could just as well target, then arrest a minor serving an EJJ sentence for a less serious crime as opposed to a traffic violation (e.g., a Class C misdemeanor). In response to this, the ASA noted that there is prosecutorial discretion as to whether to file a petition to revoke a stay on an adult sentence. Thus, a prosecutor could offset the activities of a police officer who targets a minor who has received an EJJ sentence. In addition, the ASA noted that even if someone actively sought to have the minor arrested because they did not like him, the state would still have to present enough evidence against the minor in court to have the stay revoked.

Argument #3: equal protection violations. The public defender argued that the EJJ section violates equal protection guarantees in the U.S. and Illinois Constitutions (see the glossary in Appendix B). The public defender argued that the EJJ section creates a special class of offenders who, after a petition is filed to revoke the stay on an adult sentence, are treated like neither a juvenile nor an adult. For example, the defendant is provided with neither a bond hearing like an adult nor a detention hearing like a juvenile. The public defender also noted in the interview that there was uncertainty in the minor's case as to whether a juvenile court judge or an adult court judge should hear post-conviction motions after the minor's adult sentence was imposed. The EJJ section states that after the stay on the adult sentence is revoked, the case is a matter for adult court. Consistent with this, the juvenile court judge declared after the stay was revoked that all further proceedings would be handled by adult court and the circuit court clerk's office assigned the minor an adult case number. However, the ASA argued that the juvenile court judge should continue to hear post-conviction motions because of his familiarity with the case. Ultimately, the juvenile court judge, the adult court judge newly assigned to the case, and the presiding judge (who is responsible for judicial case assignment) conferred and decided that the juvenile court judge should hear post-conviction motions while acting as a judge of general jurisdiction as opposed to as a juvenile court judge (i.e., the juvenile court judge would use adult criminal code during post-conviction hearings).

The ASA stated that the EJJ section does not violate equal protection guarantees because the intent of the guarantee is to prevent discrimination against distinct classes of individuals. According to the ASA, the EJJ section and, more generally, the Illinois

Juvenile Court Act treats all juveniles the same. When asked about equal protection during the interview, the judge concurred with the ASA.

In addition, the judge stated that although it was necessary to confer regarding the matter of which judge would hear post-conviction motions, this was not because it was unclear whether the case should be under the jurisdiction of the juvenile or adult court. The EJJ section clearly states that the case is under the jurisdiction of adult court when the stay on the adult sentence is revoked (705 ILCS 405/5-810 (6)). The judge stated that the conference took place primarily to discuss whether it may be more appropriate for him to handle post-conviction motions (using the adult criminal code) because of his familiarity with the case.

The ASA concurred with this, saying that the critical issue was not which judge should hear the case, but rather whether the adult criminal codes or juvenile criminal codes should be applied. In her opinion, either judge was qualified to hear post-conviction motions as long as the section is clear on which criminal code applies. Moreover, in her opinion, the section is quite clear that the adult criminal code applies after the stay on the adult sentence is revoked.

Argument #4: single subject rule violations. The public defender argued that the EJJ section violates the single subject rule, as set forth in the Illinois Constitution (see the glossary in Appendix B; Article 4, Section 8(d)). The public defender argued that the EJJ section addresses both juvenile and adult court procedures. In addition, the section addresses procedures pertaining to trials, sentences, and revocation hearings. According to the public defender, the section is too broad and, therefore, violates the single subject rule.

The ASA responded to this argument by noting that the EJJ section is included in the Illinois Juvenile Court Act, which confines itself to the jurisdiction of the juvenile court system. The Illinois Juvenile Court Act includes a purpose and policy statement which clearly defines its intent (Article V). The EJJ section, according to the ASA, is consistent with the purpose and intent of the Illinois Juvenile Court Act as described in the purpose and policy statement. The judge concurred with the ASA, stating that the single subject rule is intended for instances when sections cover vastly different topics and the EJJ section pertains solely to juvenile court processes.

Argument #5: separation of powers violations. The public defender argued that the EJJ section violates the separation of powers set forth in the U.S. Constitution and Illinois Constitution (see the glossary in Appendix B; Article II and Article III of the U.S. Constitution and Article II, Section 1 in the Illinois Constitution). Judges are mandated by the EJJ section to impose the adult sentence after it has been determined by a preponderance of the evidence that the minor has committed a new offense. This, according to the public defender, is undue legislative influence over matters that belong to the judiciary branch. More specifically, the public defender questioned the fact that judges who preside over EJJ prosecutions lack discretion to examine aggravating or mitigating factors related to new offenses and are forced to impose the adult sentence if a minor who is sentenced under EJJ re-offends, even if the minor has not been arrested for a jailable offense. The public defender also noted that the offense for which the minor was forced to serve a five year adult sentence carried a maximum one year prison sentence.

The judge responded to this by stating that judges never like to lose discretion, but that the EJJ section is no different from other sections that take discretion away from judges in juvenile proceedings. The judge used legislation involving mandatory transfers of juveniles to adult court as an example (705 ILCS 405/5-805 (1) (a)). He stated that mandatory transfer laws have been appealed and the laws were upheld.

The ASA again noted that the EJJ section is quite clear that the commission of any new offense will result in a revocation of the juvenile sentence and the minor was fully warned of this when he was initially sentenced after pleading guilty to aggravated robbery.

Concluding argument regarding EJJ constitutionality. The public defender concluded his motion to declare EJJ unconstitutional by arguing that the EJJ section as a whole should be stricken. He cited the Supreme Court of Illinois, who determined that if one portion of a section is unconstitutional, then the whole section should be stricken unless the remaining portion can be executed independently without the rejected portion (People v. Sequoia Brooks, 1989). The public defender argued that Subsection 6 of the EJJ section is unconstitutional (705 ILCS 405/5-810 (6). Subsection 6 addresses court procedures after a minor who has been sentenced to EJJ is arrested for a new offense. If this section is stricken, the public defender argued, much of the intent behind the legislation would be lost.

The Revocation Hearing and Post-Conviction Motions

The Revocation Hearing

The judge denied the motion to declare EJJ unconstitutional on December 28, 1999. A revocation hearing was held on January 13, 2000. The court found by a preponderance of the evidence that the minor had committed retail theft. Thus, the stay on the minor's adult sentence was revoked. The minor was sentenced to the Illinois Department of Corrections for five years. The ASA, the public defender, the judge, the minor, the minor's mother, and the sales manager of the electronic appliance store were asked about how the revocation hearing proceeded.

The sections in the Illinois Juvenile Court Act regarding probation revocation hearings state that the prosecution must present evidence sufficient to indicate by a preponderance of the evidence that the minor committed the alleged probation violation. In turn, minors have the right to legal counsel. The minor's counsel has the right to refute evidence and cross-examine witnesses.

In the attempt to establish by a preponderance of the evidence that the minor had committed retail theft, the ASA subpoenaed four witnesses from the electronic appliance store to testify against the minor. She also called a store surveillance videotape into evidence, in an attempt to establish the minor's presence at the electronic appliance store on the day of the arrest.

The manager of the electronic appliance store was one of the four witnesses subpoenaed by the ASA to testify at the revocation hearing. The manager was the individual who reported the alleged retail theft to the police. He stated that a majority of his testimony focused on establishing that the minor was caught with stolen merchandise

beyond the point of purchase. The manager stated that, on the day of the hearing, he knew the potential consequences the minor was facing. The manager learned about the potential consequences from a newspaper article that he saw several days after minor was arrested for retail theft. By the time the manager saw the newspaper article, he had already been subpoenaed to appear in court. He was not informed of the potential consequences to the minor by the arresting police officer or by the ASA. The manager stated that the ASA called him after the courier was unsuccessful in delivering the subpoena directly to him. They spoke about what he would be testifying to, but the ASA did not mention the potential consequences to the minor.

The manager stated that he would have contacted the police, even had he known at the time of the incident that the minor was serving an EJJ sentence. He stated that, as someone who has spent a long time working in retail stores, he knows that theft is a big problem and that, even though stores initially face the consequences of retail theft, the cost is eventually passed on to the consumer.

The ASA stated that, because of the potential consequences facing the minor, she believed it was important that both sides present a strong case. Thus, she attempted to treat the case similar to any other criminal trial (in which the standard of proof would be beyond a reasonable doubt). Consistent with this, the manager of the electronic appliance store stated that, in his opinion, the revocation hearing had all the elements of what one may consider to be a "real trial" (e.g., the swearing in of witnesses, direct and cross-examination, etc.). Thus, it is conceivable that, because of the potential consequences to the minor, the revocation hearing was treated with more gravity than a typical revocation hearing.

On the other hand, the judge stated that, based on his experience, the minor's revocation hearing proceeded much like a typical revocation hearing. In the judge's opinion, the fact that the minor was facing the revocation of a stay on an EJJ adult sentence did not alter the nature of the proceedings.

The public defender cross-examined the state's witnesses, but did not subpoena any witnesses. Nor did the minor testify for himself. The public defender mounted a defense for the minor that focused on the circumstances by which the minor's crime was detected. In general, the public defender felt as if he was at a disadvantage in the case because the standard of proof was by a preponderance of the evidence and, hence, not rigorous enough given the potential consequences to the minor.

The minor did not admit to having stolen merchandise from the electronics appliance store. The minor and the minor's mother described the revocation hearing as being unfair. The minor claimed that he was not past the store's point of purchase (a row of checkout lines with cash registers) when he was stopped and apprehended by store security officers. The minor's defense focused on establishing that the minor was not past the point of purchase and, therefore, store security officers could not reasonably have inferred that the minor had stolen the compact discs. The minor's mother reported that the state clearly established in court that the minor displayed behaviors which would lead one to reasonably believe that the minor *intended* to steal the compact discs. However, she also stated that, in her opinion, the public defender clearly established that the security officers were overzealous and stopped the minor prior to the point of purchase (i.e., before he actually perpetrated the offense).

However, the definition of retail theft in Illinois' Criminal Law and Procedures manual indicates that one could be guilty of retail theft by merely intending to steal merchandise from a store. Specifically, a retail theft has occurred when an individual "*knowingly takes possession of*, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail merchandise establishment *with the intention of* retaining such merchandise or *with the intention of* depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise" (emphasis added; 720 ILCS 5/16A-3 (a)). Thus, a retail theft has occurred if one takes possession of merchandise that he or she intends to steal. If the state was able to establish that the minor took possession of the compact discs and intended to steal them (for example, by demonstrating that he hid the merchandise in his coat, tore off labels that would trigger security alarms, etc.), then they need not have established that the minor walked past the cash registers with the compact discs.

The minor and the minor's mother also noted that the testimony of the store employees was contradictory. In particular, the minor's mother noted that one of the store security officers who testified seemed overly anxious to see that the minor was convicted and, thus, contradicted himself in an attempt to condemn the minor through his testimony.

Post-Conviction Motions

After the minor's adult sentence was imposed, the public defender filed several post-conviction motions: a motion for a specific sentencing order, a motion to stay the mittimus of the sentence, a motion to vacate the plea of August 19, 1999 (the date on

which the minor's guilty plea was accepted and the minor was sentenced under EJJ), and a motion to reconsider the January 13, 2000 rulings (the date on which the stay on the minor's adult sentence was revoked; see the glossary in Appendix B). The motion for a specific sentencing order (requesting that the time the minor spent in jail waiting for the revocation hearing be removed from the adult sentence) was accepted. The remaining motions were denied.

These motions were all decided upon by the juvenile court judge, who was acting as a judge of general jurisdiction. The public defender noted that he would have preferred to have post-conviction motions heard by an adult court judge. He knew that the only way to prevent the minor from serving the adult sentence was to attack the constitutionality of EJJ and the juvenile court judge had already denied the motion to declare EJJ unconstitutional. He also noted that, after the stay on the minor's adult sentence was revoked, the juvenile court judge had stated in court that, consistent with the EJJ section, the minor's case was now under the jurisdiction of adult court. Thus, before it was determined that the juvenile court judge would act as a judge of general jurisdiction, the public defender sent a letter to the ASA informing her that he intended to present his post-conviction motions to an adult court judge. The adult court judge presided over one hearing, during which he continued the case until the matter of which judge should hear post-conviction motions was resolved.

The public defender argued in the motion to stay the mittimus of the sentence that the minor had not been found guilty in a trial (i.e., beyond a reasonable doubt) and the matter was still pending, that the other unresolved motions may result in a reversal of the

January 13, 2000 ruling, and the minor posed no risk for flight and did well after being released on December 3, 1999.

The public defender requested in the motion to vacate the plea of August 19, 1999 that the plea whereby the minor accepted an EJJ sentence be withdrawn and the minor be granted the opportunity to stand trial for retail theft (see the glossary in Appendix B). The public defender pointed out in the motion to reconsider the January 13, 2000 ruling that the minor was not past the point of purchase when he was apprehended by security officers at the electronic appliance store.

Events After Most of the Post-Conviction Motions Were Denied

All of the post-conviction motions filed by the public defender that would have significantly altered the outcome of the minor's case were denied. After these post-conviction motions were denied, the public defender filed a notice of appeal on February 16, 2000. On February 18, 2000 the public defender filed two motions: a motion for the appointment of counsel on appeal and a motion to stay the adult sentence pending the appeal. The former motion was allowed, while the latter was denied. Again, both motions were decided upon by the juvenile court judge, acting as a judge of general jurisdiction. The public defender argued in the motion to stay the adult sentence pending the appeal that the minor posed no risk for flight and pointed out that the minor had still not been found guilty in a trial and the matter was still pending in court.

After the stay on the adult sentence was revoked, the minor was sent to a maximum security adult prison. Shortly thereafter, the minor was sent to a minimum security adult prison and placed in a work release program. The case remained on appeal until November 21, 2000, when, after discussing the matter with his appellate defender,

the minor dismissed the appeal. The minor reported that his appellate defender presented him with his options and let him decide whether or not to dismiss the appeal. At the time he decided to dismiss the appeal, he was up for parole in approximately ten months (September 17, 2001). He decided to dismiss the appeal because, even had he won the appeal, the case would have to be tried again. If he was found guilty in the new trial, the new sentence may have extended beyond his parole date. Thus, by continuing with the appeal process, the minor may have remained in the criminal justice system longer than if he merely completed the EJJ adult sentence.

Furthermore, the minor reported that, prior to being up for parole, he was eligible for a house arrest program, in which he would have resided at his guardian's home with electronic monitoring. Because of all these situational factors, the minor decided that it was not worth the effort to continue with the appeal.

However, approximately two months after the appeal was dismissed, the minor violated the conditions of his work release program by not returning to the minimum security detention facility on time after a work shift. As a result, the minor was transferred to a medium security detention center, where he still resided at the time this report was being written. The transfer also delayed the minor's eligibility for the house arrest program. The minor denies violating the work release curfew, stating that his employer asked him to work late and that there was insufficient communication between his employer and the detention center.

The minor was asked about how he was spending his time in prison. The conditions of the minor's juvenile probation sentence required that he attend counseling (individual counseling, grief counseling, and anger management training), participate in

drug and alcohol treatment, participate in various programs (day reporting center and peer group), and attend high school or a GED program. The minor was asked whether he was receiving any services equivalent to those he was required to receive while on juvenile probation. The minor stated that he was not receiving any services while in prison. He stated that he was not offered counseling or asked to participate in any programs. He stated that the medium security adult prison has a GED program, but that inmates often get in fights during class. The minor feared that he would get in a fight and have his parole date extended. Thus, he opted not to attend the prison GED program.

The minor's probation officer stated that he had visited the minor in prison after the stay on the adult sentence was revoked. He stated that he had noticed a change in the minor's behavior relative to when he was on probation. The probation officer described the minor as having changed from being a "kid" to being a "hardened adult inmate". This impression is consistent with observations made during the interview with the minor. The minor appeared to have acclimated to prison life. That is, the minor showed no signs of nervousness, fear, or anxiety, that may indicate difficulties associated with prison life (e.g., difficulties with other inmates). In fact, the minor made statements indicating that he was confident of his ability to take care of himself while in prison. There was no indication that the minor has been "scared straight" by the prison lifestyle.

Opinions of EJJ

Each interview was concluded with several general questions asking respondents their opinion of EJJ (e.g., what they think about the law in general, whether the law was fair, whether blended sentencing is a good idea, whether it will prevent minors from re-offending, etc.). Responses to general questions regarding EJJ are summarized in Table

5. For each respondent, the minor's case was their first exposure to EJJ. Thus, their general opinions of EJJ were shaped by the minor's case. As such, general responses regarding EJJ were often made in terms of the events in the minor's case.

Table 5: Interview Participants' Opinions of the EJJ Section

Participant	Opinion
Public Defender	It was unnecessary to include the EJJ section in the Illinois Juvenile Court Act. Minors are inherent risk takers and lack the judgment skills of adults. Thus, the adult sentence will not successfully deter minors from re-offending.
Assistant State's Attorney	The EJJ section is a useful addition to the Illinois Juvenile Court Act. Minors who commit serious offenses are provided with the opportunity to avoid the adult court system.
Judge	Minors are not always mature enough to realize the importance of their actions. Thus, the adult sentence will not consistently deter minors from re-offending. However, the minor's case was a procedural success, even though the result was not desirable.
Probation Officer	The EJJ section should allow more judicial discretion. In particular, courts should have more flexibility regarding how they may respond to a new offense.
Minor	It is fair to give minors a second chance to avoid prison. However, only minors who have the right mindset (i.e., to avoid acting impulsively and are, therefore, able to follow rules and laws) will successfully complete the juvenile sentence. The EJJ section should be clearer on what constitutes an offense sufficient to impose the adult sentence. If minors are going to be sentenced to prison for less serious offenses, this should be made clearer to them.
Minor's Mother	If I had this choice to make over again, I would probably have chosen EJJ for the minor again. It gave the minor a second chance. The problem with EJJ is that it leaves the judge with no discretion after minors are found to have committed new offenses. The judge should be able to take the nature and severity of the new offense into account. This is the pitfall of EJJ.

Table 5 (cont.): Interview Participants' Opinions of the EJJ Section

Participant	Opinion
Victim – Convenience Store Clerk	The adult sentence will not consistently serve as a deterrent. It will differ on a case-by-case basis. Minors who had a criminal history record prior to committing the offense that resulted in an EJJ sentence may be more likely to re-offend.
Victim – Sales Manager, Electronic Appliances Store	No comment. That topic is best left up to legislators.

The Public Defender's Opinion

The public defender stated that the EJJ section may have been included in the Illinois Juvenile Court Act because of a perceived need to respond strongly to juvenile crime. That is, the public defender believes that the EJJ section is a legislative response to a perceived societal need. The public defender continued by stating that, in his opinion, it was unnecessary to include a blended sentencing option in the Illinois Juvenile Court Act. Instead, if a minor commits a serious offense, then the case should simply be transferred to adult court.

The public defender stated that, based on his experience defending juvenile offenders, minors convicted of crimes tend to get into trouble again. He emphasized that, in his opinion, when minor's re-offend, it does not necessarily mean that they are destined to be criminals throughout their lifetime. Rather, they re-offend because it takes time to resolve the issues that led to the criminal behavior. The public defender cited peer relationships, drugs, and family problems as examples. He further stated that minors are inherent risk takers and lack the judgment that comes with adulthood. Thus, overall,

the public defender does not believe that the possibility of a prison sentence will deter minors from re-offending.

Moreover, the public defender stated that prison sentences can be detrimental to the development of minors. Based on his experience, prison sentences do not decrease the likelihood that minors will commit crimes after they are released.

The ASA's Opinion

The ASA began her general responses regarding EJJ by stating that, from a procedural standpoint, EJJ worked in the minor's case. The minor was granted an opportunity to avoid the adult system, and was held accountable when he did not abide by the conditions of his juvenile sentence. Moreover, the ASA stated that, because minors are provided with this opportunity, the EJJ section is a useful addition to the Illinois Juvenile Court Act. Consistent with this, she stated that she considers EJJ when examining cases that are referred to her office and has petitioned the court for an EJJ prosecution on two other occasions. She stated that, although she was disappointed that the minor did not successfully completed his juvenile sentence, she hopes that EJJ will serve as a deterrent for other minors who have committed serious offenses.

The Judge's Opinion

The judge stated that the intended utility of the legislation is to protect the community (by deterring minors from re-offending), while also keeping minors out of the adult system. He noted that he had attended meetings where the new legislation was being discussed and planned and, at the time, he believed that the legislation was a good idea. However, he has subsequently changed his opinion, and now believes that the threat of an adult sentence will not serve as a deterrent. The judge stated that, in his

experience, minors are prone to violate their probation sentences because they are not mature enough to realize the importance of their actions. Thus, in the judge's opinion, the section will not prove to be useful.

Nonetheless, he also pointed out that EJJ cases in the county have received media attention. The judge noted that perhaps, as a result of the publicity these cases have received, other minors who heard about the cases will be hesitant to commit offenses themselves.

The judge also noted that the EJJ section can put defense attorneys in a very difficult position. That is, even if minors state that they will abide by their juvenile sentence, there is no way for defense attorneys to really know if the minors will successfully complete the juvenile sentence. Thus, should a case involving an EJJ prosecution be resolved by plea agreement, then it is difficult for defense attorneys to know whether the agreement is favorable to their client.

The judge stated that he was satisfied with the way the minor's case proceeded and that, in his opinion, the process did what the legislators intended, even if the outcome was not desirable. He noted that, for most minors, stealing a compact disc would not result in a probation revocation but, for the minor's case, there was no leeway.

The Probation Officer's Opinion

The probation officer stated that his primary criticism of the EJJ section is that it leaves little discretion for the judge. In his opinion, there is too little flexibility included in the EJJ section regarding how the court system may respond to a new offense. He noted that, at the minor's revocation hearing, the judge stated in court that he had no

option but to revoke the stay on the adult sentence. The probation officer would prefer that the judge be able to distinguish between different types of offenses.

The probation officer also stated that the potential of an adult sentence being imposed will not consistently deter minors from re-offending. The effectiveness of EJJ sentences in acting as a deterrant will vary on a case by case basis. The potential of an adult sentence being imposed will deter some minors, but have no impact on other minors.

The Minor's Opinion

The minor stated that the concept of giving young offenders a second chance is fair. However, he also stated that the potential of an adult sentence being imposed will not serve as a deterrent for some minors. Specifically, the minor stated that young offenders must be in the "right mindset" in order to avoid having the adult sentence imposed. He continued by stating that minors who do not have the mindset that they are going to follow the conditions of their juvenile sentence will fail, even with the potential of an adult sentence being imposed.

The mindset that the minor was referring to seemed to be based on his personal experiences. The minor acknowledged that, at certain times, it is easier for him to avoid acting impulsively and, therefore, also avoid getting in trouble. At other times, he knows, based on how he feels, that he is more prone to get in trouble. The minor did not elaborate on what causes these feelings. Nonetheless, by right mindset, the minor was essentially referring to the ability to avoid acting impulsively.

The minor stated that the EJJ section should be clearer on what constitutes an offense sufficient to revoke the stay on the adult sentence, particularly if minors can end

up in prison for committing lesser offenses. The minor reported that he understood the concept of EJJ. He reported that he understood the risk of having the adult sentence imposed. The minor emphasized that he never thought he could end up in prison for stealing compact discs. He acknowledged that he was warned by the judge and by his probation officer to follow all the conditions of his juvenile probation sentence. Nonetheless, he stated that, when he was arrested for retail theft, he did not believe that the offense would automatically necessitate the imposition of the adult sentence.

The minor may have recognized that the arrest could possibly result in the revocation of the juvenile probation sentence, as he stated that he did not want his probation officer to find out about the arrest after it occurred. However, in the minor's opinion, had most other individuals on probation been arrested for the same crime, the arrest would not have resulted in a probation violation. Or, the minor continued, had the offense resulted in a probation violation, the judge would have simply extended the probation sentence. This was how the minor believed he would be treated after he was arrested for retail theft.

Thus, it appeared as if the minor recognized that he engaged in risky behavior at the electronic appliance store, but miscalculated exactly how risky the behavior was. Because the minor describes himself as a risk-taker, he may have approached his juvenile probation sentence by thinking in terms of what violations he could potentially commit and still avoid having the adult sanctions imposed. In lieu of absolute certainty that the adult sanctions would be imposed if he got caught, the minor may have believed that the risk was worth taking.

The minor's mother agreed that the minor was not clear on what constituted a violation severe enough to necessitate imposition of the adult sentence. She stated that the minor was genuinely surprised when he learned that he may have to go to adult prison, especially after he found out that the friend who was arrested with the minor and also charged with retail theft received relatively minor sanctions. She stated that she understood what constituted an offense severe enough to necessitate imposition of the adult sentence. She also stated that she spoke to the minor about potential consequences. Yet, she still believed that the minor was unclear on what would necessitate the imposition of the adult sentence.

The Minor's Mother's Opinion

The minor's mother stated that, like the minor, she believes that the concept of giving minors a second chance is fair. She stated that, even after what happened to the minor, if she had the same choice to make over again, she would still take the plea agreement that involved an EJJ sentence. In her opinion, EJJ ensured that the minor had an opportunity to remain out of adult prison or juvenile detention. Had the minor gone to trial without the minor's case having been designated as an EJJ proceeding, then the minor may have been sentenced to adult prison or juvenile detention.

The minor's mother stated that, like the minor's probation officer, her primary criticism of the EJJ section is that it leaves little discretion for the judge after it has been determined that the minor has committed a new offense. She stated that the judge should be able to take the nature and severity of the new offense into account when determining whether to impose the adult sentence. She described this lack of judicial discretion as the

pitfall of EJJ. Finally, the minor's mother also expressed concerned that, once minors are sentenced to prison, they do not receive the services they need.

The Victims' Opinions

When asked about her opinion of EJJ, the convenience store clerk appeared uncertain as to how to respond. This uncertainty seemed to stem from what she may have perceived as an inability to make an accurate statement about the overall effectiveness of EJJ. The convenience store clerk stated that the EJJ section is effective only if minors do not re-offend. However, in her opinion, the adult sentence will not consistently serve as a deterrent. Instead, some minors will succeed while others will fail. Thus, in the convenience store clerk's opinion, whether EJJ is an effective tool varies on a case by case basis. Finally, the convenience store clerk noted that minors who have a criminal history record prior to receiving an EJJ sentence may be more likely to re-offend and have the adult sentence imposed. In her opinion, EJJ may not be appropriate for repeat offenders.

When asked about the EJJ section, the sales manager at the electronic appliances store chose not to comment, stating that issues of that sort are best left up to legislators.

Conclusions

Many states, in an attempt to respond to serious and violent juvenile crime, have passed legislation that provides juvenile or adult courts with the authority to give minors who have been adjudicated delinquent both juvenile and adult sanctions (blended sentences). Most blended sentencing laws were passed fairly recently (in the 1990's). The Juvenile Justice Reform Provisions, which allowed blended sentencing (specifically, EJJ prosecutions) in Illinois, are no exception. The Juvenile Justice Reform Provisions

provided for a section in the Illinois Juvenile Court Act that enables prosecutors to petition the court for an EJJ prosecution. The section took effect on January 1, 1999.

Because EJJ is a new and unique response to serious and violent juvenile crime in Illinois, juvenile justice practitioners and policy makers may want to revisit the EJJ legislation. Future discussions regarding EJJ may focus on whether the legislation is achieving its intended goals and/or whether modifications should be made to the current EJJ section. This report provided a detailed description of one case that involved an EJJ prosecution. Some of the information included in the case description seems to speak to the utility of EJJ in Illinois and potential modifications to the current EJJ sections. While this information may only pertain to the single case described in this report, it nonetheless may warrant some consideration as Illinois' EJJ legislation is evaluated in the years to come.

This section summarizes five notable findings from the case description. When determining what is noteworthy, an attempt was made to identify themes or consistencies in the report (e.g., comments made by several interview respondents). Perhaps because the minor whose case is described in the report was not an example of a "success story", four of the five notable findings described in this section are critiques of Illinois' EJJ legislation.

The first notable finding is that EJJ was perceived by several interview respondents as useful tool for providing minors who commit serious or violent crimes with a last chance to avoid having their case transferred to adult court. Second, several interview respondents were skeptical as to whether the potential adult sentence will deter minors who receive EJJ sentences from getting into more trouble. Third, several

interview respondents believed that the lack of judicial discretion as to whether an adult sentence should be imposed after minors who are sentenced under EJJ commit a new offense is unfair to minors. Fourth, several interview respondents stated that the part of the EJJ section describing consequences if minors are arrested for a new offense should distinguish between different types of offenses. Fifth, the minor's public defender presented a noteworthy argument regarding the unfairness of the standard of proof at hearings to revoke the stay on EJJ adult sentence. After each finding is described, a conclusion (specific to the minor's case) is drawn.

EJJ as a Last Chance

Conceptually, EJJ provides minors who have committed serious or violent crimes with a last chance to avoid having their case transferred to adult court. The ASA, public defender, the minor, the minor's mother, and the victim (the convenience store clerk) all supported the minor's EJJ sentence (a two year juvenile probation sentence and five year adult prison sentence, to be stayed upon successful completion of the juvenile sentence) as being a fair and appropriate response to the minor's criminal behavior. Each of these individuals played a different role in the minor's case and, hence, had different perspectives on EJJ. Yet, a common theme in their responses regarding the minor's EJJ sentence was that the minor may have deserved a second chance and EJJ provided a good method whereby the minor could receive such a chance.

The ASA believed it was her responsibility to ensure that the minor be held accountable for his actions. However, she also believed that the minor's behavior may have been the result of recent events in the minor's life, such as the death of the minor's father. As such, the ASA believed it was appropriate to provide the minor with a last

chance, while ensuring that he receives necessary services intended to minimize the likelihood of his re-offending. EJJ proved to be a useful tool that enabled her to provide the minor with a last chance.

The public defender believed that there was little or no way he could avoid having the court designate the case an EJJ prosecution. In this respect, he felt as if he was limited in his ability to plea bargain with the ASA. Nonetheless, when presented with a plea agreement that involved an EJJ sentence, he perceived the plea agreement as an opportunity for the minor to avoid serving detention or prison time if he stayed out of trouble. In lieu of the plea agreement involving an EJJ sentence, the public defender would have had to gamble on the court disposition not including detention or prison time. The public defender preferred that the minor's destiny be in his own hands as opposed to that of the court. The minor and the minor's mother agreed. Neither the minor or the minor's mother had any complaints about the minor receiving an EJJ sentence. They both appreciated the fact that EJJ allowed the minor the opportunity to remain in the community, despite having committed a serious offense.

The convenience store clerk may have wanted to see the minor punished severely for having committed a violent offense against her. However, despite being victimized, the convenience store clerk was able to objectively reflect on the minor's situation when asked whether the minor's EJJ sentence was fair and appropriate. In her opinion, if the minor had no criminal history record, then he deserved a last chance.

Conclusion: *Individuals involved in the minor's case found EJJ to be a useful tool for providing the minor with a last chance to avoid adult court or to avoid serving detention or prison time.*

EJJ as a Deterrent

Conceptually, the adult sentence is intended to provide minors with a strong incentive to stay out of trouble. The minor did not stay out of trouble. In fact, he was arrested for a new offense on the first day in which he was granted permission from the probation department to spent unsupervised time with a friend. When asked about why he was unable to succeed on juvenile probation and whether he thinks EJJ adult sentences will prevent other minors from re-offending, the minor stated that, in order to succeed, minors must be in the right "mindset". The mindset he seemed to be referring to was one in which minors are able to avoid acting impulsively and are able to think about potential consequences prior to acting. The minor implied that this mindset is internal or based on events in a minor's life, as opposed to on the external threat of having to serve an adult sentence.

The minor's comments are consistent with opinions from the public defender, probation officer, and juvenile court judge. All three of these interview participants have had a great deal of experience in the juvenile justice system and, based on their experience, were skeptical as to whether EJJ will deter minor's from re-offending. In their experience, minors are prone to exhibit impulsive behavior that is not in their best interest. Many minors do not exhibit these behaviors because they are destined to be "hardened criminals" but rather because they lack the maturity that comes with adulthood.

Conclusion: *The outcome of the minor's case and comments made by the minor and those involved in the minor's case suggest that EJJ adult sentences may not deter minors from re-offending.*

Mandatory Adult Sentences After a New Offense

After receiving an EJJ sentence, the minor was found, by a preponderance of the evidence, to have committed retail theft. As a result of the retail theft, the minor's adult sentence was imposed. This may be viewed as a victory for proponents of EJJ. The minor was provided with a last chance. After failing to abide by the conditions of his juvenile probation sentence, he faced swift, certain consequences.

On the other hand, prior to the new arrest, the minor was successfully completing his juvenile probation conditions. Moreover, retail theft is an offense that, when perpetrated by an offender for the first time, does not typically result in a detention or prison sentence. Thus, factors existed which may have suggested that, in the minor's case, an alternative to adult prison was appropriate. The EJJ section in the Illinois Juvenile Court Act mandates that the adult sentence *must be* imposed when minors are found to have committed *any* new offense. Thus, the judge was required to impose the five year adult prison sentence after the minor was found to have committed retail theft.

The minor's mother, probation officer, and public defender each made comments indicating that, in their opinion, the adult sentence should not be mandatory for every new offense committed by minors who are serving an EJJ sentence. To make the adult sentence mandatory means that juvenile offenders serving EJJ sentences will be treated in the same manner by the court system following the commission of a new offense, irrespective of whether the new offense is relatively minor (e.g., vandalism that causes minimal monetary damage) or serious (e.g., homicide, sexual assault).

Interview respondents suggested two ways in which offense type can be taken into account after a minor who has received an EJJ sentence commits a new offense:

judicial discretion and *statutory distinction*. The minor's mother, the probation officer, and the public defender suggested that, after a minor who is sentenced under EJJ commits a new offense, the judge should be allowed discretion to consider offense type and other case specific factors prior to imposing the adult sentence. However, the judge himself expressed no concern over the mandatory adult sentence after a minor serving an EJJ sentence commits a new offense, stating that this aspect of EJJ was constitutionally sound. In addition to judicial discretion, the public defender also suggested that the section of the EJJ section in the Illinois Juvenile Court Act that describes court procedures after minors commit new offenses should be modified to distinguish between different types of offenses (705 ILCS 405/5-810 (6)).

Conclusion: *Several interview respondents believe that a weakness of EJJ is its inability to ensure that "the punishment fits the crime" after a minor who is sentenced under EJJ commits a new offense.*

The Standard of Proof at Revocation Hearings

After the minor was arrested for retail theft, he faced the possibility of having to serve a five year adult prison sentence. The public defender argued that, given these severe consequences, the minor should have been granted a juvenile court trial in which the standard of proof was beyond a reasonable doubt (the most stringent standard; see the glossary in Appendix B). Instead, in accordance with the EJJ section, he was granted a probation revocation hearing in which the standard of proof was by a preponderance of the evidence (a less stringent standard; see the glossary in Appendix B). The ASA and judge believed that this standard of proof was appropriate because the minor was on juvenile probation and, therefore the hearing to revoke the stay on his adult sentence

should be treated like any other juvenile probation revocation hearing (in which the standard of proof would be by a preponderance of the evidence). Moreover, the ASA noted that one purpose of probation is to provide minors with a heightened sense of awareness that they should abide by the law. Should minors who are on probation fail to abide by the law, then, because they should have had this heightened sense of awareness, the standard of proof at the revocation hearing should be less stringent than the standard of proof at a juvenile trial.

On the other hand, the inclusion of the EJJ section in the Illinois Juvenile Court Act creates a special class of juvenile offenders who are "closer" to receiving adult sanctions than the typical juvenile probationer. As a consequence, EJJ minors faced more severe consequences than typical juvenile probationers and, as the public defender argued, it may not be appropriate to treat EJJ minors like typical juvenile probationers.

Conclusion: *The public defender believes that the standard of proof at hearings to revoke the stay on adult EJJ sentences should be more commensurate with the severity of the adult sanctions faced by minors serving EJJ sentences.*

Overall Conclusion

The intent of the EJJ section in Illinois was to provide juvenile justice professionals with an additional option in handling juvenile cases. This additional option was intended to allow the juvenile justice system with an opportunity to offer assistance to minors who commit serious or violent offenses, while still ensuring that the minor is held accountable for the offense. Therein lies the promise of EJJ.

Those involved with the minor's case agree that the minor was provided with a last chance and was provided with the resources and services which could have enabled

him to succeed. In this respect, EJJ worked as it was intended. Moreover, after the court found that the minor committed a new offense, he was held fully responsible for his actions. Again, given the conceptual purpose of EJJ, one may conclude that EJJ worked as it was intended. The issues and arguments regarding EJJ focus less on *whether* the minor should have been held accountable after being found to have committed retail theft, but rather *how* the minor should be held accountable. What should be the process for revoking the stay on an adult sentence? Given that a severe adult sentence may not serve as a deterrent to future criminal activity, should the punishment for committing a new crime be based on the nature of the new crime, as opposed to a pre-determined adult sentence that has been "hanging over the head" of the minor? Policy makers may want to revisit the EJJ section in an attempt to answer these questions and others that may arise as EJJ prosecutions are held throughout Illinois.

V. A Case Study Report Describing the Distinction Between Formal Station Adjustments and Informal Station Adjustments

Changes in the Handling and Processing of Station Adjustments

Juvenile police officers in Illinois have the authority to resolve juvenile cases by issuing station adjustments. Station adjustments provide juvenile officers with the opportunity to intervene or redirect minors who have committed crimes, while also allowing minors with the opportunity to avoid having their cases referred to the state's attorney's office for potential court processing. Typically, station adjustments are issued for less serious offenses. When a juvenile officer issues a station adjustment, he or she handles the minor's case at the police station, then releases the minor without referring the case to court. Juvenile officers who issue station adjustments may require minors to

complete one or more conditions (e.g., community service, restitution) as part of a station adjustment plan or agreement, thereby making minors accountable for their actions.

The most recent edition of the Illinois Juvenile Court Act (published in 1998) includes a section which allows juvenile officers to issue station adjustments to minors who are arrested, and describes how station adjustments are to be handled (705 ILCS 405/5-301). Juvenile officers were allowed to issue station adjustments prior to 1998. That is, previous editions of the Illinois Juvenile Court Act (published prior to 1998) also included a section which allowed juvenile officers to issue station adjustments. However, the station adjustment section in the 1998 edition of the Illinois Juvenile Court Act included some notable differences from previous station adjustment sections. These changes to the station adjustment section were mandated by Juvenile Justice Reform Provisions of 1998. Specifically, the Reform Provisions made three significant changes in how station adjustments are to be handled and processed by: (1) making a distinction between two different types of station adjustments: formal station adjustments and informal station adjustments, (2) limiting the number of station adjustments that minors can receive without the state's attorney's approval, and (3) mandating that station adjustments involving felony offenses are reported to the Illinois State Police. All three of these changes have implications for how juvenile officers in Illinois handle and process station adjustments. However, the distinction between formal and informal station adjustments seemed to have the greatest implications for the everyday handling of station adjustments in Illinois (and was, therefore, the change that was most amenable to examination via case study). Thus, this case study report emphasizes the distinction between formal and informal station adjustments.

Prior to the Reform Provisions, the Illinois Juvenile Court Act did not distinguish between different types of station adjustments. The section simply described how all station adjustments were to be handled. In accordance with the Reform Provisions, the station adjustment section in the most recent edition of the Illinois Juvenile Court Act is now effectively split into two sections. One section describes how formal station adjustments are to be handled and the other section describes how informal station adjustments are to be handled.

Table 6 shows verbatim sections of the station adjustment section in the Illinois Juvenile Court Act pertaining to: (1) the conditions that must exist in order for a juvenile officer to issue both types of station adjustment, (2) the conditions that juvenile officers may impose upon minors who are issued both types of station adjustments, and (3) the consequences if minors fail to abide by the conditions of both types of station adjustments. In general, minors who are issued formal station adjustments are held more accountable for their actions and are monitored more closely than minors who are issued informal station adjustments; a formal station adjustment is a more punitive response to juvenile crime. However, Table 6 shows that there are similarities between the part of the station adjustment section pertaining to formal station adjustments and the part of the section pertaining to informal station adjustments. The areas of overlap between the two parts are highlighted in Table 6. The highlighted areas show that nearly every component of informal station adjustments also appears in the part of the section pertaining to formal station adjustments. There are some additional components to formal station adjustments that are not included in the part of the section pertaining to informal station adjustments. Moreover, when there is overlap between the formal

station adjustment part of the section and the informal station adjustment part of the section, the component tends to be described differently in the two sections. The subsections below describe, in more detail, the similarities and differences between formal and informal station adjustments that are implied by the section. Then, formal and informal station adjustments will be considered in light of the other two notable changes that the Juvenile Justice Reform Provisions made to the manner in which station adjustments are to be handled and processed. Considering the changes collectively enables one to clarify the intended goals and purposes of the distinction between formal and informal station adjustments.

Table 6: Illinois Law Pertaining to Formal and Informal Station Adjustments[a]

Type of Station Adjustment	Necessary Conditions in Order to Issue	Conditions Juvenile Officers May Impose	Consequences if the Minor Fails to Abide by the Conditions
Formal	**A formal station adjustment is defined as a procedure when a juvenile police officer determines that there is probable cause to believe that the minor has committed an offense** and an admission by the minor of involvement in the offense.[b] The minor and parent, guardian, or legal custodian must agree in writing to the formal station adjustment and must be advised of the consequences of violation of any term of the agreement. The minor and parent, guardian or legal custodian shall be provided a copy of the signed agreement of the formal station adjustment.	Conditions of the formal station adjustment may include, but are not limited to: (i) The time shall not exceed 120 days. (ii) The minor shall not violate any laws. (iii) The juvenile police officer may require the minor to comply with additional conditions for the formal station adjustment which **may include but are not limited to**: (a) **Attending school.** (b) **Abiding by a set curfew.** (c) **Payment of restitution.** (d) Refraining from possessing a firearm or other weapon. (e) Reporting to a police officer at designated times and places, including reporting and verification that the minor is at home at designated hours. (f) **Performing up to 25 hours of community service work.** (g) **Refraining from entering designated geographical areas.** (h) **Participating in community mediation.** (i) **Participating in teen court or peer court.** (j) **Refraining from contact with specified persons.**	If the minor violates any term or condition of the formal station adjustment the juvenile police officer shall provide written notice of violation to the minor and the minor's parent, guardian, or legal custodian. After consultation with the minor and the minor's parent, guardian, or legal custodian, the juvenile police officer may take any of the following steps upon violation: (i) Warn the minor of consequences of continued violations and continue the formal station adjustment. (ii) Extend the period of the formal station adjustment up to a total of 180 days. (iii) Extend the number of community service hours up to a total of 40 hours. (iv) Terminate the formal station adjustment unsatisfactorily and take no other action. (v) Terminate the formal station adjustment unsatisfactorily and **refer the matter to the juvenile court**.

Table 6 (cont.): Illinois Law Pertaining to Formal and Informal Station Adjustments

Type of Station Adjustment	Necessary Conditions in Order to Issue	Conditions Juvenile Officers May Impose	Consequences if the Minor Fails to Abide by the Conditions
Informal	**An informal station adjustment is defined as a procedure when a juvenile police officer determines that there is probable cause to believe that the minor has committed an offense**.	The juvenile police officer may make reasonable conditions of an informal station adjustment which **may include but are not limited to**: (i) **Curfew**. (ii) **Conditions restricting entry into designated geographical areas**. (iii) **No contact with specified persons**. (iv) **School attendance**. (v) **Performing up to 25 hours of community service work**. (vi) **Community mediation**. (vii) **Teen court or a peer court**. (viii) **Restitution** limited to 90 days.	If the minor refuses or fails to abide by the conditions of an informal station adjustment, the juvenile police officer may impose a formal station adjustment or **refer the matter to the State's Attorney's Office**.

a: 705 ILCS 405/5-301(2) describes formal station adjustments and 705 ILCS 405/5-301 (1) describes informal station adjustments.
b: Bold text indicates aspects identical to both formal and informal station adjustments.

Issuing Formal and Informal Station Adjustments

Table 6 shows that, in order to issue an informal station adjustment, a juvenile officer need only have probable cause to believe that a minor has committed an offense. That is, a juvenile officer need only have a reasonable ground in fact and circumstance to believe that a minor has committed an offense. Similarly, in order to issue a formal station adjustment, the juvenile officer must also have probable cause to believe that a

minor has committed an offense. However, there are also several other necessary conditions that must be fulfilled in order for a juvenile officer to issue a formal station adjustment. The minor must admit to the offense. The minor and the minor's parent(s) or guardian(s) must agree to the formal station adjustment, then sign a written agreement form that describes the conditions of the station adjustment and the consequences should the minor fail to abide by the conditions. Thus, as described in the station adjustment section, formal station adjustments must necessarily involve the minor's parent(s) or guardian(s), whereas informal station adjustments need not involve parent(s) or guardian(s) at all.

The part of the section describing formal station adjustments in the Illinois Juvenile Court Act lists the information that should be included in the written agreement that is to be signed by minors and their parents or guardians (705 ILCS 405/5-310 (2) (c) (i–v)).[11] The written agreement is to include: (1) the offense which formed the basis of the formal station adjustment, (2) an acknowledgement that the terms of the formal station adjustment and the consequences for violation have been explained, (3) an acknowledgement that the formal station adjustments record may be expunged under Section 5-915 of this Act, (4) an acknowledgement that the minor understands that his or her admission of involvement in the offense may be admitted in future court hearings, and (5) a statement that all parties understand the terms and conditions of the formal station adjustment and agree to the formal station adjustment process.

Station Adjustment Conditions

Table 6 shows the conditions that may be included in a station adjustment

[11] The list included in the text of this report uses the exact language used in the section.

agreement. The section parts pertaining to formal and informal station adjustments both list conditions that juvenile officers may impose. There is a great deal of overlap in these lists. Both lists include school attendance, curfews, restitution, community service (a maximum of 25 hours), refraining from entering certain areas, participation in community mediation, participation in teen court or peer court, and refraining from having contact with specified persons. For both formal and informal station adjustments, juvenile officers are given latitude to impose additional conditions that are not included in these lists (the lists are prefaced with the disclaimer that "conditions may include but are not limited to").

There are also noteworthy differences between the part of the section describing conditions that may be imposed for formal station adjustments and the part of the section describing conditions that may be imposed for informal station adjustments. First, the language in the formal station adjustment section implies that the conditions are mandatory and that minors face more severe consequences should they fail to abide by the conditions. For example, the formal station adjustment part of the section states that juvenile officers may *require* minors to comply with any of the conditions listed, whereas the informal station adjustment part of the section states that juvenile officers may *make reasonable conditions* from the list.

Second, there are conditions which appear in the formal station adjustment part of the section that do not appear in the informal station adjustment part of the section. Specifically, juvenile officers who issue formal station adjustments may include the following conditions: (1) requiring the minor to agree not to commit any more crimes, (2) requiring the minor to refrain from possessing a firearm or other weapons, and (3)

requiring the minor to report to the juvenile officer at designated times and places. In addition, the formal station adjustment part of the section places a time limit on how long the minor may have to complete the conditions, whereas the informal station adjustment part of the section does not.

Consequences

Table 6 shows that the formal station adjustment part of the section provides detail on the process that juvenile officers must follow if the minor violates the conditions of the station adjustment agreement. The juvenile officer is to inform the minor and the minor's parent(s) or guardian(s) of the violation in writing, then again during a consultation. The juvenile officer is to inform the minor and the minor's parent(s) or guardian(s) of the consequences he or she has decided to impose upon the minor for the violation. On the other hand, the informal station adjustment part of the section provides no details on the process that juvenile officers are to follow in order to impose consequences on minors who have failed to abide by station adjustment conditions.

In addition, the only consequences explicitly mentioned in the informal station adjustment part of the section are to impose a formal station adjustment (which implies that formal station adjustments are more punitive than informal station adjustments) or refer the minor's case to court. On the other hand, the formal station adjustment part of the section lists several options that vary in severity (e.g., ranging from a verbal warning to referring the case to court).

There are again differences in the language used to describe consequences in the formal station adjustment section and the informal station adjustment section. The language used in formal station adjustment section suggests that the station adjustment

agreement is akin to conditions in a probation sentence. The formal station adjustment section refers to failures to abide by station adjustment conditions as *violations.* Juvenile officers may *terminate the formal station adjustment unsatisfactorily*, just as a judge may terminate a probation sentence unsatisfactorily. On the other hand, the informal station adjustment does not use this type of language, but merely states that the juvenile officer may impose the consequences if the minor *refuses or fails to abide by* the informal station adjustment conditions.

Other Changes in Station Adjustment Legislation

The intended purpose of distinguishing between two types of station adjustments can best be understood in light of the other two notable changes that the Juvenile Justice Reform Provisions made to the manner in which station adjustments are handled and processed. First, the Juvenile Justice Reform Provisions mandated that, effective January 1, 1999, every law enforcement agency in Illinois would submit arrest information on all juveniles ages 10 years or older who are arrested for a felony offense to the Illinois State Police. This mandate includes instances when minors are issued a station adjustment for a felony offense. Reporting misdemeanor arrests (including station adjustments) is optional.

Prior to the Reform Provisions, law enforcement agencies were only required to submit arrest information when juveniles were arrested for the following types of offenses: (1) forcible felonies, (2) unlawful use of a weapon, or (3) Class 2 or greater felonies involving drug or certain motor vehicle offenses.[12] [13] Thus, the Reform

[12] Forcible felonies include murder, criminal sexual assault, robbery, burglary, arson, kidnapping, aggravated battery, and other violent felonies.
[13] See footnote #1 for a description of how offenses are classified in Illinois.

Provisions expanded the number of juvenile cases which are to be submitted to the Illinois State Police. The goal of the mandate was to create a comprehensive centralized database of criminal offenders in Illinois.

Second, the Juvenile Justice Reform Provisions placed limits on the number of station adjustments that minors may receive without the prior approval of the state's attorney. The limits differ based on type of station adjustment (formal vs. informal) and type of offense (misdemeanor vs. felony). These limits are included in the 1998 edition of the Illinois Juvenile Court Act (705 ILCS 405/5-301 (1) (b-d) for informal station adjustments and 705 ILCS 405/5-301 (2) (j-l) for formal station adjustments). Prior to the Juvenile Justice Reform Provisions, the Illinois Juvenile Court Act placed no limits on the number of station adjustments that a minor may receive. Table 7 shows the limits that appear in the 1998 edition of the Illinois Juvenile Court Act.

Table 7: Limits on the Number of Station Adjustments Minors May Receive

	Type of Station Adjustment	
Type of Offense	**Informal**	**Formal**
Misdemeanor	3 within 3 years	3 within 3 years
Felony	3 within 3 years	2 within 3 years
Total (Misdemeanors and Felonies)	No more than 5 during years of minority	No more than 4 during years of minority

Collectively, the changes made to the manner in which station adjustments are to be handled and processed under the Juvenile Justice Reform Provisions were intended to achieve at least two goals: (1) to ensure that minors are held accountable for their actions and, (2) to ensure that minors receive necessary services.

First, the changes are intended to ensure that minors are held accountable for their actions. For example, law enforcement agencies are now required to report felony station

adjustments to the Illinois State Police because of a concern that station adjustments were not being documented in a manner that facilitates inter-agency communication. Without a system that facilitates inter-agency communication, arresting juvenile officers may not be aware that some minors (e.g., those who have moved to a different jurisdiction) have received station adjustments in the past. This may allow some minors to receive a large number of station adjustments, instead of facing more severe consequences for a pattern of criminal behavior. Such minors may get the message that there are little or no consequences for illegal behavior. If so, then this message may increase the likelihood of minors continuing to engage in illegal behaviors (and potentially more serious illegal behaviors) as they enter adulthood.

Thus, the reporting mandate was intended to ensure that fewer minors are able to "beat the system" by receiving a large number of station adjustments without facing more severe consequences for their actions. Consistent with this, the station adjustment limits ensure that minors who receive a relatively large number of station adjustments face more severe consequences for their actions. Finally, the part of the section describing formal station adjustments provides juvenile officers with detailed guidelines on how to administer a rigorous, high accountability type of station adjustment.

Second, the changes to the manner in which station adjustments are to be handled and processed are intended to ensure that minors who become involved in the criminal justice system receive necessary services. For example, a pattern of criminal behavior serves as a "red flag" that juvenile officers will miss if they are unaware of previous station adjustments. By having accurate information on previous station adjustments, juvenile officers may be in a better position to make decisions that serve the best interest

of the minor. Moreover, the requirements for formal station adjustments ensure that parents will be an active part of the minor's case. Parental involvement may aid in ensuring that minors receive necessary services.

Case Selection

The changes that the Juvenile Justice Reform Provisions made to the manner in which station adjustments are to be handled and processed represented some of the most noteworthy changes that the legislation made to the Illinois juvenile justice system. In particular, the distinction between formal and informal station adjustments seemed to have practical implications for the everyday handling of juvenile cases. Thus, a decision was made to examine how one Illinois law enforcement agency is handling station adjustments after the changes made by the Juvenile Justice Reform Provisions, with an emphasis on how the agency is distinguishing between formal and informal station adjustments.

The law enforcement agency was selected based on two criteria. First, a juvenile officer from the agency completed one of our surveys for the statewide survey component of this evaluation. On the survey, the officer noted that his agency is currently distinguishing between formal and informal station adjustments. Second, the Authority had worked with the law enforcement agency on research projects in the past; a relationship had already been developed between the Authority and the law enforcement agency, thereby potentially increasing the likelihood that the agency would be willing to participate in the case study research.

Shortly after preliminary work on the Juvenile Justice Reform Provisions evaluation had begun, the evaluation team contacted the chief of police at the law

enforcement agency and inquired whether the agency would be willing to participate in the case study research. The police chief and the commander in charge of the agency's juvenile division both granted the evaluation team permission to work on a case study report examining how their agency handles formal and informal station adjustments.

A juvenile officer was assigned to assist the primary author with the case study research. At the time of the research, the juvenile officer had been working at the law enforcement agency for approximately six years. The juvenile officer is a detective who conducts juvenile investigations. That is, the juvenile officer does not typically patrol the streets. Instead, he typically handles juvenile cases after a minor is arrested and brought to the police station.

After the law enforcement agency receives a report that someone has committed a crime, a patrol officer will respond to the report. If the patrol officer is able to make an arrest, then he or she will obtain the offender's age. If the offender is a minor, then the patrol officer takes the minor to the police station and hands the case over to a juvenile investigator (e.g., the officer who was assigned to assist the primary researcher).

The law enforcement agency has a juvenile investigations division and an adult investigations division. Detectives who work in the juvenile investigations division have been trained to handle juvenile cases and granted juvenile accreditation by the Illinois Law Enforcement Training and Standards Board. These detectives can handle both juvenile and adult cases (whereas adult investigators may only handle adult cases). The juvenile investigator assigned to assist with the research has been handling both adult and juvenile cases for approximately the last four years. In fact, at the time of the research,

the juvenile investigator was handling an adult homicide investigation. Prior to this time, the juvenile investigator almost exclusively handled juvenile cases.

The law enforcement agency serves a village located in a county that has been designated an urban county by the U.S. Census Bureau. The village is located fairly close to the county's largest city. The U.S. Census Bureau estimated that the village had a population of 76,031 in 2000. In 1999, the village's law enforcement agency was composed of 108 sworn officers. Of these 108 officers, the juvenile investigator stated that approximately 9 work in the juvenile investigations unit. Only four of the nine juvenile investigators work in the same capacity as the juvenile investigator (handling juvenile cases that are brought to the police station). The juvenile investigator stated that these four juvenile investigators handle approximately 98% of the juvenile arrests made by the agency. The remaining investigators in the juvenile unit work in local schools or on a gang unit that also handles adult cases. The juvenile investigator stated that, because the juvenile investigations unit handles such a large majority of the agency's juvenile cases, he felt comfortable speaking for the agency as a whole regarding how juvenile cases are handled, how the agency perceives the distinction between formal and informal station adjustments, etc.

The U.S. Census Bureau estimated that approximately 91% of the village's residents are White (Hispanic or Non-Hispanic; 68,854 of the citizens residing in the village). Asians represent the largest minority racial group residing in the village (4,548 of the village's residents are Asian, or 6.0% of the total population). In addition, 4.5% of the village's residents are Hispanic (of any race).

The case study report includes a detailed description of how the juvenile investigator generally handles formal and informal station adjustments (across all cases in which he issued a station adjustment). The juvenile investigator was asked numerous questions which were intended to identify how he handles the two types of station adjustments and how he perceives the distinction between formal and informal station adjustments.

The case study report also includes a detailed description of a case in which the juvenile investigator issued a formal station adjustment.[14] The description includes details on how the juvenile investigator handled the minor's case, as well as the thoughts and opinions of individuals involved in the case. The purpose of the detailed description is to provide a specific illustration of an instance when the juvenile investigator put his general procedures for handling station adjustments into practice. The detailed description involves a case in which a 15 year old male was arrested for stealing from his place of employment and charged with retail theft (720 ILCS 5/16 A-3). The minor was subsequently issued a formal station adjustment.

Method

Procedure

Shortly after receiving permission to conduct a case study examining how the law enforcement agency handles formal and informal station adjustments, the primary author met with the juvenile investigator who was assigned to assist with the research. The primary author provided the juvenile investigator with a general description of the

[14] An attempt was also made to describe a case in which the juvenile investigator issued an informal station adjustment. However, the primary author was unable to obtain a case for which it was possible to write a detailed case description. The reasons why it was difficult to obtain a case in which a minor had been issued an informal station adjustment will be described below.

research, as well as the investigator's role in the research. The juvenile investigator was told that, ideally, the case study report would include a general description of how he handles formal and informal station adjustments, as well as two detailed case descriptions: one involving a case in which a minor was issued a formal station adjustment and one involving a case in which a minor was issued an informal station adjustment.

The juvenile investigator was asked to select relatively recent cases in which he or his partner had issued a station adjustment (formal or informal) to a minor who was at least 13 years of age and who spoke English as his or her primary language. An arrangement was made with the juvenile investigator whereby the investigator or his partner would examine the case files that they selected and contact the minor's parent(s) or guardian(s) to inquire whether the evaluation team could be provided with contact information (their address, phone number, and the minor's name) so that we could send them information about the case study research. This process was agreed upon by the evaluation team and the juvenile investigator as a necessary first step to protect the privacy and rights of potential participants.

The juvenile investigator was asked to begin by selecting cases in which the minor had been issued a station adjustment within the last month, as minors and their parent(s) or guardian(s) involved in cases that had been handled more recently would likely have better recollection of the station adjustment. The juvenile investigator was told that, if he or his partner were unable to contact the parents of minors whose cases had been handled in the last month or if, upon contacting these individuals, the parents

preferred not to reveal their contact information, then he and his partner could select cases that had been handled less recently.

After contacting a potential participant that agreed to disclose their contact information, the juvenile investigator would then contact the primary author and provide the information. The evaluation team would then send the minor's parent(s) or guardian(s) information describing the research, following which the primary author would call the parent(s) on the telephone to inquire whether the minor's parent(s) and/or the minor are willing to participate in the research. The research involved participating in an interview regarding how the minor's station adjustment was handled. After gaining the participation of the minor's parent(s) or guardian(s) and/or the minor, then other individuals involved in the minor's case were contacted to request their participation as well.

The next two sub-sections describe attempts to obtain cases involving formal and informal station adjustments, respectively, using this procedure.

Formal station adjustment contacts. The juvenile investigator and his partner made approximately five phone calls to parent(s) or guardian(s) of minors who had been issued a formal station adjustment within approximately the last two months. They were unable to contact any of the five parents on the first attempt. Upon attempting to call the five parent(s) or guardian(s) a second time, only a single phone call was necessary. The parent (the minor's mother) agreed to reveal her contact information and, hence, agreed to receive information about the research. She subsequently agreed to participate in the research.

The case involved a 15 year old male who was arrested for retail theft (720 ILCS 5/16A-3). The minor was employed as a cashier at a local hardware store. The minor arranged for a friend to bring an item (a heater with a retail value of $108.22) up to the cash register while the minor was working, the minor then recorded a sale for the heater without requiring the friend to pay for the item, following which he issued a refund for the item (i.e., gave the friend money back for returning an item that he never purchased).

The store manager noticed the theft when examining purchases and refunds. She noticed that there was a time lapse of only a few minutes between the purchase and the return, so she inspected a store video of the transaction. The video indicated that the transaction was suspicious, so she contacted the store's upper management. Upper management contacted the store's loss prevention unit, who conducted an internal investigation. Based on the internal investigation, they asked the store manager to contact the police. The minor was arrested for retail theft and issued a formal station adjustment. When an individual is convicted of retail theft for the first time and the retail value of the merchandise stolen does not exceed $150, then the offense is a Class A misdemeanor.[15] Such was the case for the minor.

After the minor's mother agreed to participate in the research, she was asked during the same phone conversation whether the minor and the minor's father would also be willing to participate in interviews. The minor's mother reported that the minor's father works two jobs and would likely not have time to participate in an interview. She also stated that she was uncertain whether the minor would participate and that she would discuss the matter with him. In a subsequent contact, the minor's mother was again

[15] See footnote #1 for a description of how offenses are classified in Illinois.

asked whether the minor would be willing to participate in an interview. At this time, she reported that the minor was hesitant to participate in the research because the station adjustment and resulting station adjustment plan had already placed a large number of requirements on the minor. The minor perceived the research as yet another requirement being imposed upon him as a result of the incident.

In an attempt to minimize the time that the research would require of the minor, the minor was sent a short survey which, for the most part, was composed of questions requiring quick, short answers. The minor did not complete the survey.

Data for the description of the minor's case came primarily from interviews with three individuals: the juvenile investigator who issued the formal station adjustment, the minor's mother, and the store manager who contacted the police. Parent(s) or guardian(s) of minors whose cases had been handled by either the juvenile investigator who had been assigned to assist with the research and the juvenile investigator's partner were called about the research. The minor had been issued a formal station adjustment by the juvenile investigator (not by his partner). All three interview participants were asked questions about how the station adjustment was handled, as well as their thoughts and opinions on how the station adjustment was handled (see Appendix A). The juvenile investigator was asked general questions about how he handles formal and informal station adjustments during the same interviews in which he was asked about the minor's case. Question lists for the interviews were developed based primarily on the section in the Illinois Juvenile Court Act pertaining to formal and informal station adjustments (e.g., asking whether the minor's case proceeded in accordance with the section descriptions,

whether the juvenile investigator generally handles station adjustments in a manner consistent with the section descriptions).

Interviews with all three participants were audiotaped. The juvenile investigator participated in two 60 minute interview sessions, each of which took place in an interview room at the police station. The interview with the minor's mother lasted approximately 30 minutes and took place at the minor's home. The interview with the store manager lasted approximately 20 minutes and took place over the telephone.

Three additional data sources also contributed to the case study report: the minor's station adjustment plan, the arrest report describing the minor's offense, and a manual describing how the village's peer jury program operates.

Informal station adjustment contact. The juvenile investigator reported that he and his partner rarely issue informal station adjustments for criminal offenses. Instead, the juvenile investigator and his partner tend to issue informal station adjustments for status offenses. In particular, runaways often get issued informal station adjustments. However, the juvenile investigator reported that, at the time of the research, he had not issued any informal station adjustments to runaways for a long period of time (he estimated between nine months and a year). Because he rarely issues informal station adjustments for criminal offenses, he had also not issued any informal station adjustments *at all* during this time period. Likewise, the juvenile investigator's partner reported that he had only issued one informal station adjustment in the relatively recent past. The juvenile investigator's partner contacted the minor's mother in this one case, who agreed to reveal her contact information and receive information about the research. However, she subsequently chose not to participate in the research. A decision was made not to

contact parent(s) or guardian(s) of minors who had been issued an informal station adjustment between nine months and one year prior to the research. Given the long period of time that had elapsed since the informal station adjustment had been issued, these minors and their parent(s) or guardian(s) may not be able to accurately recall how the case was handled. Thus, the case study report does not include a detailed description of a case in which a minor was issued an informal station adjustment.

Case Study Report

The case study report is described in six separate sections. The six sections address: (1) the factors that the juvenile investigator considers when deciding whether to issue a station adjustment and when deciding which type of station adjustment to issue, (2) the process that minors go through when they are issued a formal station adjustment and the process that minors go through when they are issued an informal station adjustment, (3) the conditions that are imposed when minors are issued formal station adjustments and when minors are issued informal station adjustments, (4) how formal and informal station adjustment conditions are monitored, (5) the consequences should minors fail to abide by conditions imposed in formal and informal station adjustments, and (6) how the law enforcement agency is responding to the other changes that the Juvenile Justice Reform Provisions made to the manner in which station adjustments are handled and processed.

With the exception of the section addressing the other changes to station adjustments, each section describes, for the topic addressed in the section, how the juvenile investigator generally handles formal and informal station adjustments (across all cases in which the juvenile investigator issued each type of station adjustment). Then,

each section is concluded with a specific description of how the juvenile investigator handled the minor's case.

During the interviews with the juvenile investigator, he was asked several questions intended to determine the *impact* that the distinction between formal and informal station adjustment has had on how he handles station adjustments (e.g., behavioral or procedural changes made by juvenile officers in the law enforcement agency). The juvenile investigator's responses indicated that the distinction changed the nomenclature that the law enforcement agency uses when describing station adjustments, but has had little real impact on the behavior of juvenile officers in the agency.

For example, the juvenile investigator stated that he is handling station adjustments exactly as he did prior to the distinction. He is making the same decisions regarding whether or not to issue a station adjustment, imposing the same conditions, subjecting minors to the same consequences should they fail to abide by station adjustment conditions, etc. According to the juvenile investigator, the primary difference is in how station adjustments are classified. Instead of simply labeling every station adjustment generically as a "station adjustment", he now must consider whether a station adjustment is a "formal station adjustment" or an "informal station adjustment". Thus, in reality, the case study report is not describing the changes that the law enforcement agency made in order to distinguish between formal and informal station adjustments. Rather, the case study report describes how the law enforcement agency is currently classifying cases in which minors are issued station adjustments, in an attempt to adhere to state laws pertaining to station adjustments. This is an important distinction which readers should keep in mind as they read the case study report.

The Decision to Issue a Formal or Informal Station Adjustment

When speaking of the decision-making process that he adopts when determining whether to issue a station adjustment, the juvenile investigator often contrasted formal and informal station adjustments with other options for handling juvenile cases. As such, it useful to clarify the options that the juvenile investigator spoke about during the interviews. When a juvenile is brought to the police station and handed over to the juvenile investigator, he has at least five options for handling juvenile cases which are, in order of punitiveness (from least punitive to most punitive): to dismiss the case, to issue an informal station adjustment, to issue a formal station adjustment, to issue a local ordinance violation, or to refer the minor to court (where the case may be prosecuted by the county's state's attorney's office).

The juvenile investigator can issue a local ordinance violation when a minor violates ordinances that have been passed by local government. The ordinances apply only to the village served by the law enforcement agency. Often, local ordinances are passed when city officials are dissatisfied with a state law on the same topic. For example, if the state's version of a status offense is perceived by city officials as being too lenient on minors, then the city council or board may pass a more stringent version of the same status offense.

The village has local ordinances pertaining to several status offenses (underage drinking, underage smoking, curfew, and truancy), as well as several criminal offenses that may be committed by minors (retail theft, vandalism, driving under the influence of alcohol). If a juvenile officer issues a local ordinance violation, then the minor must attend a court hearing in front of an associate judge. The judge can impose a sentence

upon the minor that may include the same conditions that a station adjustment plan would include. Thus, when a minor is issued a local ordinance violation, he is essentially being referred to court, albeit at the local level as opposed to the county level. The associate judge will typically place the minor under court supervision and levy a fine. The judge may also require the minor to participate in community service, write an essay (applicable to the nature of the offense), or attend a local program (again, applicable to the nature of the offense).

Associate judges are more limited than juvenile court judges in the sentences that they may impose. Thus, a local ordinance violation is a less punitive response to a juvenile crime than referring the minor to the state's attorney's office. For example, an associate judge may only sentence a minor to a court supervision term, whereas a county circuit court juvenile judge may impose a probation sentence. Probation sentences are more closely monitored than court supervision sentences. Nonetheless, as will be described below, there are instances when the juvenile investigator finds the local form of sanctioning preferable to referring the case to the county state's attorney's office.

This section includes a series of six flowcharts. Each flowchart demonstrates how the juvenile investigator combines various factors to determine how to handle juvenile cases. Thus, the flowcharts demonstrate the juvenile investigator's decision-making processes. The six flowcharts show examples of the factors that must be present in order for the juvenile investigator to handle the case via all five options listed above: dismissing the case, issuing an informal station adjustment (two flowcharts), issuing a formal station adjustment, issuing a local ordinance violation, and referring the minor to court. Although the report emphasizes the decision making processes for formal and

informal station adjustments, it was determined that these processes could not be effectively described without contrasting them with the decision making processes for the other options. Moreover, the inclusion of flowcharts for all five options implies a recognition that police decision making involves weighing the appropriateness of several alternatives. For example, the juvenile investigator likely does not receive a case and begin by asking himself "Is a formal station adjustment appropriate?" Instead, he likely asks himself questions that imply comparison, such as "Is a formal station adjustment more appropriate than a court referral?" Describing when the juvenile investigator issues a formal station adjustment *and* when the juvenile investigator refers a minor to court sheds more light on both decision making processes.

It should be kept in mind that the flowcharts are generalizations across many juvenile cases. The flowcharts are not meant to imply that when certain criteria exist, then the juvenile investigator *always* chooses a particular option. In fact, during the interviews with the juvenile investigator, he had difficulties generalizing across cases because each case is unique and must be considered individually.

Decision-Making and the Illinois Juvenile Court Act

The Illinois Juvenile Court Act lists six factors that arresting juvenile officers are to consider when deciding whether to issue a station adjustment (formal or informal): (1) the seriousness of the alleged offense, (2) the prior history of delinquency of the minor, (3) the age of the minor, (4) the culpability of the minor in committing the alleged offense, (5) whether the offense was committed in an aggressive or premeditated manner, and (6) whether the minor used or possessed a deadly weapon when committing the alleged offense (705 ILCS 405/5-301).

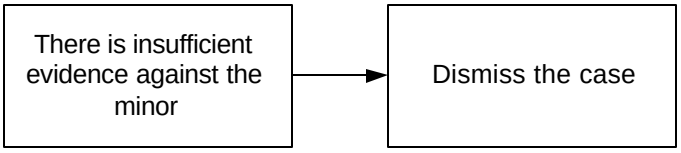
The juvenile investigator was asked whether he considers these factors when deciding whether to issue a station adjustment. The juvenile investigator answered affirmatively. He was then asked whether one or more of these factors are more important than the others. The juvenile investigator responded that each of the six factors are very important to consider when determining whether a station adjustment is an appropriate option. The juvenile investigator believes that, in general, a station adjustment is an appropriate option if the minor has committed a less serious offense (e.g., a misdemeanor offense, a felony offense in which the minor is less culpable, an offense that is not premeditated, an offense that does not involve a weapon) and has had minimal involvement with the juvenile justice system.

Overall, the juvenile investigator uses all the criteria listed in the Illinois Juvenile Court Act to determine if a station adjustment (formal or informal) is appropriate *at all.* If the juvenile investigator believes that a station adjustment is an appropriate option, then he considers several factors when determining *which type* of station adjustment to issue: formal or informal. These factors are described below.

Option 1: Dismissing the Case

When a juvenile case gets handed over to the juvenile investigator, he has the option of simply dismissing the case. Figure 1 shows the decision-making process that the juvenile investigator adopts when determining that it is appropriate to dismiss a juvenile case. The message from Figure 1 is simple and basic: the juvenile investigator generally only dismisses juvenile cases when there is insufficient evidence against the minor. If there is sufficient evidence against the minor, then the juvenile investigator typically chooses another option.

Figure 1: Decision-Making Process for Dismissing a Juvenile Case



Option 2: Issuing an Informal Station Adjustment

Informal station adjustments vs. dismissing the case. Figure 1 has implications for how the juvenile investigator perceives informal station adjustments. Typically, if there is reasonable ground to infer that the minor committed the offense then, at minimum, the minor will receive an informal station adjustment. In order of severity, an informal station adjustment is the least punitive response to a juvenile crime (short of dismissing the case). Thus, for some juvenile cases, the juvenile investigator may decide between dismissing the case and issuing an informal station adjustment.

The juvenile investigator reported that he sometimes uses informal station adjustments simply as a means to document that the minor and the minor's parent(s) or guardian(s) were at the police station and he spoke to them about the minor's behavior. The juvenile investigator estimated that he imposes no conditions on minors for 95% of the informal station adjustments that he issues. He stated that, in his opinion, informal station adjustments are appropriate when there is sufficient evidence that the minor committed a less serious offense and the minor has had no previous contact with the police. In such instances, simply talking to the minor about the offense, reading the minor his or her Miranda rights (if the minor has committed a criminal offense), taking the minor's picture, etc., may have an impact. The juvenile investigator stated that

minors who have committed status offenses such as running away from home or violating a local or state curfew are generally issued an informal station adjustment primarily for the purpose of documenting the case.

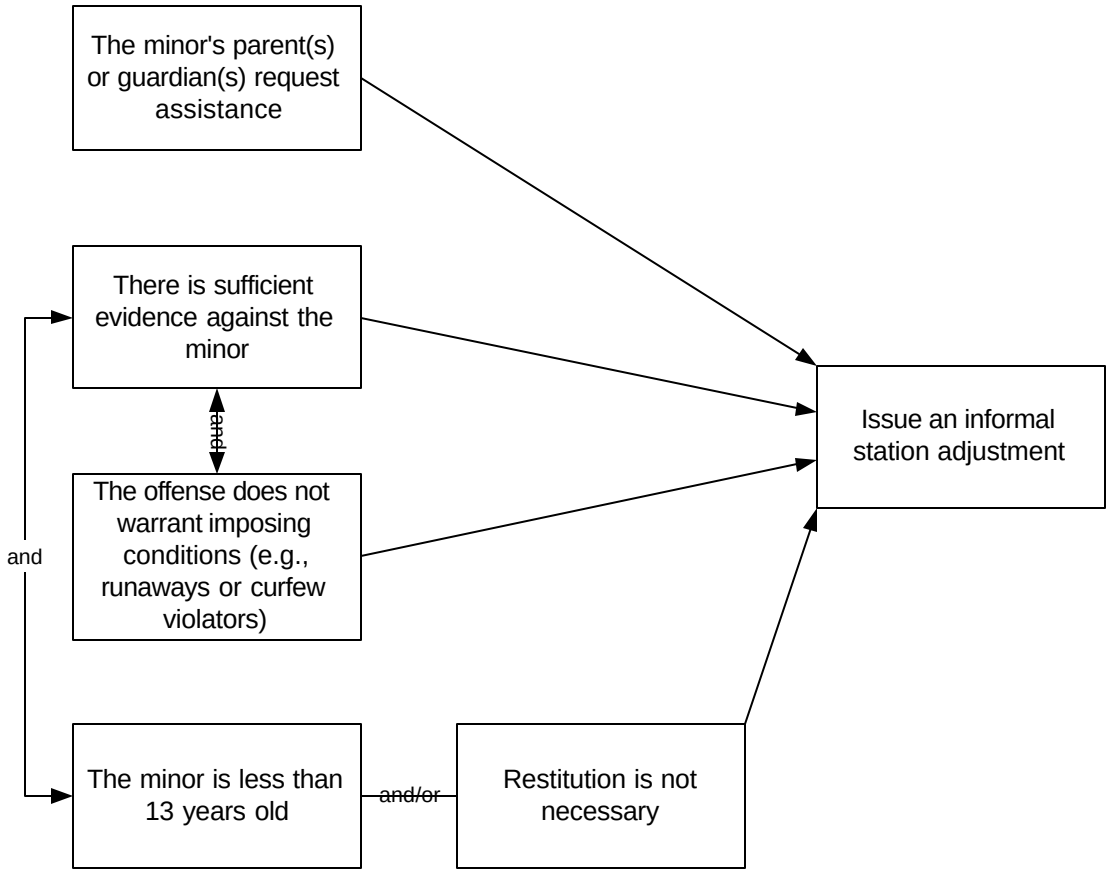
Table 8 shows information on every case in which the juvenile investigator issued a station adjustment in 2000. Table 8 shows that 9 of the 12 informal station adjustments that the juvenile investigator issued in 2000 were for runaways. However, none were for curfew violations. Table 8 also shows that the juvenile investigator imposed a condition in only one of the informal station adjustments that he issued in 2000. Figure 2 shows the decision-making process that the juvenile investigator adopts when determining that it is appropriate to issue an informal station adjustment. Figure 2 shows that one instance when the juvenile investigator issues an informal station adjustment is when "there is sufficient evidence against the minor" and "the offense does not warrant imposing conditions".

Table 8: Formal and Informal Station Adjustments Issued by the Juvenile Investigator in 2000

Formal Station Adjustments (N = 7, 7 offenders, 5 offenses)					
Offense #	**Offender #**	**Age**	**Gender**	**Offense**	**Conditions**
1	1	15	M	Criminal Damage to Vehicle & Battery	Restitution
2	2	15	M	Residential Burglary	None[b c]
3	3	15	M	Attempted Burglary	Comply with parental discipline
4	4	16	M	Criminal Trespass to Residence	Peer jury
4	5	15	M	Criminal Trespass to Residence	Peer jury
4	6	14	M	Criminal Trespass to Residence	Peer jury
5	7	12	M	Domestic Battery	No further instances of violence
Informal Station Adjustments (N = 12, 11 offenders, 12 offenses)					
Offense #	**Offender #**	**Age**	**Gender**	**Offense**	**Conditions**
6	8	16	M	Runaway	None[a]
7	8	16	M	Runaway	None[a]
8	9	15	M	Criminal Damage to Property	None[b c]
9	10	16	F	Runaway	None[a]
10	11	17	M	Runaway	None[a]
11	12	17	F	Runaway	None[a]
12	13	15	F	Runaway	None[a]
13	14	17	M	Runaway	None[a]
14	15	16	M	Retail Theft	Do not go back to the store[c]
15	16	12	M	Retail Theft	None[c]
16	17	16	F	Runaway	None[a]
17	18	17	F	Runaway	None[a]

a: The juvenile investigator reported that, for all runaways, he talks to the minor at the police station and, if deemed necessary, refers the minor to an appropriate service provider.
b: The juvenile investigator made social service referrals in these cases.
c: For these cases, restitution would have been an appropriate condition, but the minor had already returned the stolen item(s) or paid the victim.

Figure 2: Decision-Making Process for Issuing an Informal Station Adjustment



The juvenile investigator also noted that there are instances when he has handled a case and the minor's parents or guardians contact him afterwards to report that the minor is still exhibiting negative behavior. Parent(s) or guardian(s) may make such a call after the minor has been issued a local ordinance violation and is place on court supervision by an associate judge or after the minor has been issued an informal station adjustment. The parent(s) or guardian(s) may contact the juvenile investigator because they would like to see the minor face consequences for failing to abide by the court supervision or informal station adjustment sentence. In such instances, the juvenile investigator tells the parents that there is little he can do, but sometimes offers to speak to

the minor. If he speaks to the minor at the police station, then he issues the minor an informal station adjustment. It seems to be rare that the juvenile investigator follows up an informal station adjustment with a second informal station adjustment. Table 8 shows that only one minor had been issued more than one informal station adjustment in 2000. Figure 2 shows that another instance when the juvenile investigator issues informal station adjustments is when "the minor's parent(s) or guardian(s) request assistance".

Informal station adjustments vs. formal station adjustments. The juvenile investigator also mentioned two instances when he tends to issue informal station adjustment as opposed to a formal station adjustment: (1) when the offense does not involve restitution, and (2) when the minor is under 13 years of age. Figure 2 shows that the juvenile investigator will issue a station adjustment when "there is sufficient evidence against the minor" and "the minor is less than 13 years old" and/or "restitution is not necessary".

First, the juvenile investigator would be unlikely to issue an informal station adjustment when the nature of the offense suggests that the minor should pay restitution to the victim. If the nature of the offense suggests that the minor should pay restitution then, according to the juvenile investigator, a formal station adjustment is more likely to be appropriate. The juvenile investigator stated that, in his opinion, one way of distinguishing between formal and informal station adjustments is the extent to which parent(s) or guardian(s) are given the responsibility for monitoring minors to ensure that they follow through with adjustment conditions, remain crime free, etc. In the juvenile investigator's opinion, for informal station adjustments, more of the responsibility falls on the shoulders of the minor's parent(s) or guardian(s) as opposed to on the juvenile

officer or on other plan monitors. For formal station adjustments, juvenile officers should take more responsibility and make more of an effort to ensure that minors abide by their station adjustment conditions.

When restitution seems appropriate, the juvenile investigator believes that it is the responsibility of a juvenile officer to ensure that the minor pays the victim (either through a formal station adjustment or a court referral in which the court may require restitution). In the juvenile investigator's opinion, law enforcement should be responsive to the needs of victims. The juvenile investigator also noted that the formal station adjustment process can assist the juvenile officer in ensuring that the minor pays the victim (by having the minor and his parent(s) or guardian(s) sign a form stating how much the minor should pay and the date by which the amount must be paid). Moreover, he noted that, in some instances, the relationship between the juvenile offender and the victim may be strained and it may be necessary for the juvenile officer to act as a "go-between" to ensure that the victim receives the money (e.g., in order to avoid a conflict, the juvenile officer can deliver the money to the victim). The formal station adjustment form can specify that the money should first be given to the juvenile investigator so that he may act in this capacity. Thus, when the juvenile investigator believes that a station adjustment is appropriate (and the minor should not be referred to court) and the case involves restitution, the minor almost always receives a formal station adjustment with restitution included as a station adjustment condition.

The perception that parent(s) or guardian(s) should take more responsibility when an informal station adjustment is issued also helps to explain why the juvenile investigator believes that runaways and curfew violaters should be issued informal station

adjustments. In the juvenile investigator's opinion, the causal factors contributing to status offenses such as running away or violating curfews lie in the minor's home situation. A strong reaction from law enforcement will do little to prevent these behaviors from re-occurring. Thus, when runaways or curfew violators are handed over to him, the juvenile investigator speaks to the minor and the minor's parent(s) or guardian(s) at the police station, documents the case by issuing an informal station adjustment and, if deemed necessary, makes appropriate referrals for social services.

The juvenile investigator also tends to issue informal station adjustments when the minor is under 13 years old. That is, the older the minor, the greater the likelihood that a formal station adjustment will be imposed instead of an informal station adjustment. Older juvenile offenders tend to be perceived as more culpable. In addition, the juvenile investigator noted a practical reason why very young offenders are not issued formal station adjustments. The village has a peer jury program. Minors who are issued station adjustments may be required to attend peer jury. The juvenile investigator reported that peer jury is a frequently used station adjustment condition (although, Table 8 shows that the juvenile investigator included peer jury participation as a station condition for only three minors in 2000, all of whom were involved in the same offense). If minors are asked to participate in peer jury as a station adjustment condition, then they are always issued a formal station adjustment as opposed to an informal station adjustment. This is because of the responsibility placed on the juvenile officer to ensure that the minor attends the peer jury session (again, for formal station adjustments, more responsibility rests on the shoulders of the juvenile officer) and because the sanctions imposed at peer jury are perceived by the law enforcement agency as being too stringent

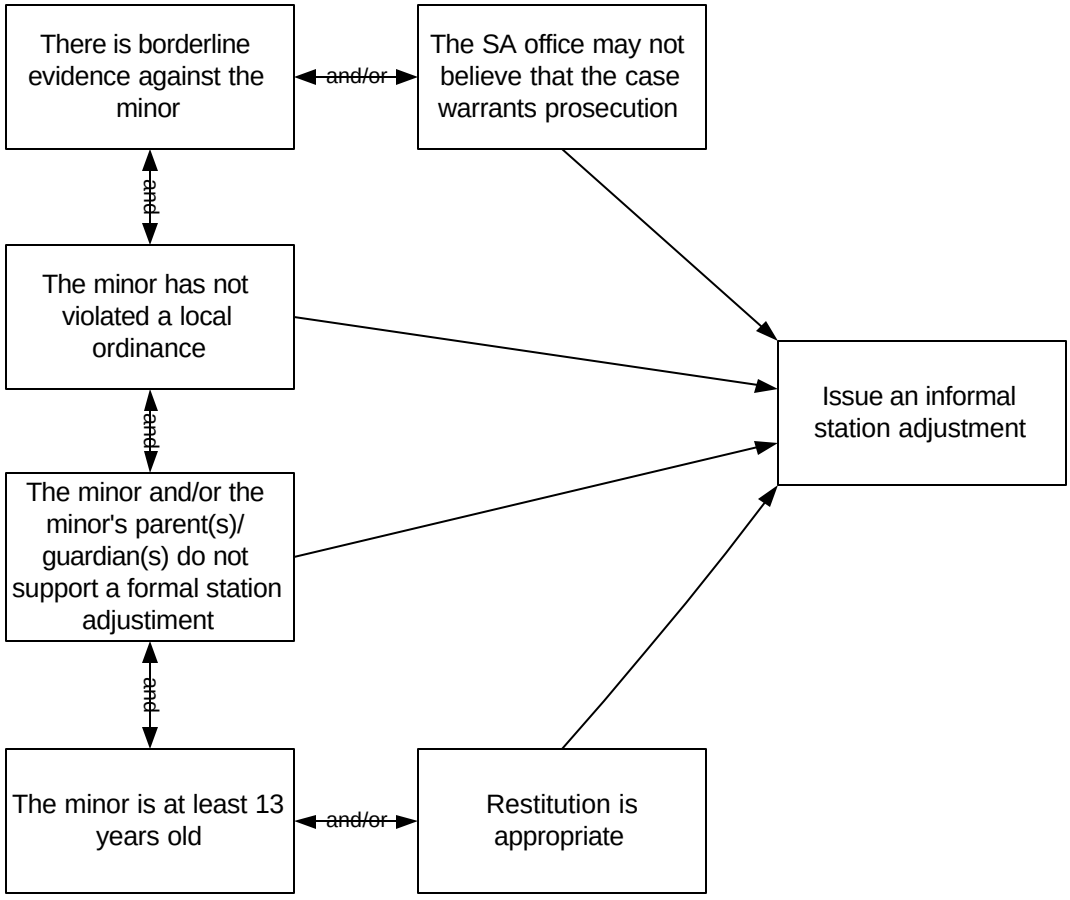
for informal station adjustments. While the peer jury program guidelines do not explicitly preclude very young offenders from participating, the juvenile investigator believes that the experience is more beneficial for older offenders. Minors who participate in peer jury are required to articulate why they committed the offense, how they feel about the offense, etc., and, in the juvenile investigator's opinion, this would be a difficult task for a very young offender. Thus, peer jury is linked with older offenders (age 13 or older) and with formal station adjustments.

"Forced" informal station adjustments. There is an additional situation when the juvenile investigator stated that he may issue an informal station adjustment. This situation appears in Figure 3. The situation is labeled a "forced" informal station adjustment because the juvenile investigator would have preferred to choose another option (a formal station adjustment or a court referral), yet the other options were not available to him. The juvenile investigator stated that the situation has occurred very rarely.

For some cases, the juvenile investigator may believe that an informal station adjustment is not appropriate (perhaps based on the minor's age or because restitution is appropriate). In such cases, the juvenile investigator may choose to decide between issuing a formal station adjustment or referring the minor to court (locally or the county state's attorney's office). The juvenile investigator stated that, for these cases, he will often issue a formal adjustment if the minor accepts responsibility for the offense and/or is remorseful about the offense. The juvenile investigator also considers the reaction of the minor's parent(s) or guardian(s). If the minor's parent(s) or guardian(s) defend the minor's behavior or deny that the minor committed the offense, then the juvenile

investigator may be less likely to issue a formal station adjustment. If the parent(s) or guardian(s) rebuke the minor or express concern over the minor's behavior, then the juvenile investigator is more likely to issue a formal station adjustment. The juvenile investigator noted that, in instances when he is deciding between a formal station adjustment and a court referral, minors typically accept responsibility for their actions and the parent(s) or guardian(s) do not defend the minor.

Figure 3: An Instance When the Juvenile Investigator is "Forced" to Issue an Informal Station Adjustment



When minors accept responsibility for their offense and parent(s) or guardian(s) condemn the minor's behavior, then minors are more likely to abide by their adjustment

conditions. More practically, in order for a juvenile officer to issue a formal station adjustment, minors and their parent(s) or guardian(s) must first sign an agreement form that includes a description of the minor's offense, the minor's station adjustment conditions, etc. The juvenile officer will not obtain these necessary signatures if a minor and/or the minor's parent(s) or guardian(s) are resistant.

On the rare occasions when a formal station adjustment is a possibility, but the minor and/or the minor's parent(s) or guardian(s) do not support the formal station adjustment, then the juvenile investigator may refer the minor's case to court. The juvenile investigator must then consider whether to issue a local ordinance violation or refer the minor to the county state's attorney. If the juvenile investigator believes that the case warrants full prosecution with a wider array of potential sentencing options, then he would prefer to refer the case to the county state's attorney. However, the village is located in a county in which the state's attorney receives a large number of cases. As a result, the juvenile investigator is cautious as to which cases he refers to the state's attorney's office. Should he send cases that the state's attorney's office perceives as frivolous or for which sufficient evidence may be lacking, it may damage his reputation at the office and result in his stronger cases being attended to less closely.

If the juvenile investigator believes that the state's attorney's office may not respond favorably to a case in which the minor and/or the minor's parent(s) or guardian(s) do not support a formal station adjustment, then he may call the office and explain the situation. Alternatively, he may issue a local ordinance violation. This ensures that the minor gets sent to court, where he may receive sanctions for his behavior.

However, if the minor has not violated a local ordinance and the juvenile investigator feels as if he should not refer the case to the state's attorney's office, then the juvenile investigator has one final option short of dismissing the case. Specifically, the juvenile investigator can issue an informal station adjustment. The juvenile investigator stated that he may issue an informal station adjustment as a last resort when he believes that the minor has committed the offense, yet his options are limited (due to lack of evidence, the fact that the minor has not violated a local ordinance, and resistance from the minor and the minor's parent(s) or guardian(s)). He knows that if the minor and/or the minor's parent(s) or guardian(s) are resistant and do not support a formal station adjustment, then the minor will likely not follow through with any conditions that are imposed verbally in an informal station adjustment. Nonetheless, in the juvenile investigator's opinion, issuing an informal station adjustment is preferable to dismissing the case because the informal station adjustment allows him to document that the minor has been at the station, create a case file on the minor, etc. The juvenile investigator is very limited in the conditions he may impose under these circumstances.

Figure 3 shows how the juvenile investigator can be "forced" to issue an informal station adjustment when "the minor is at least 13 years old" and/or "restitution is appropriate". "Forced" informal station adjustments may occur for such minors when the state's attorney's office may not view the case favorably (because "there is borderline evidence against the minor" and/or "the state's attorney's office may not believe that the case warrants prosecution"), "the minor has not violated a local ordinance violation", and "the minor and/or the minor's parent(s) or guardian(s) do not support a formal station adjustment".

Option 3: Issuing a Formal Station Adjustment

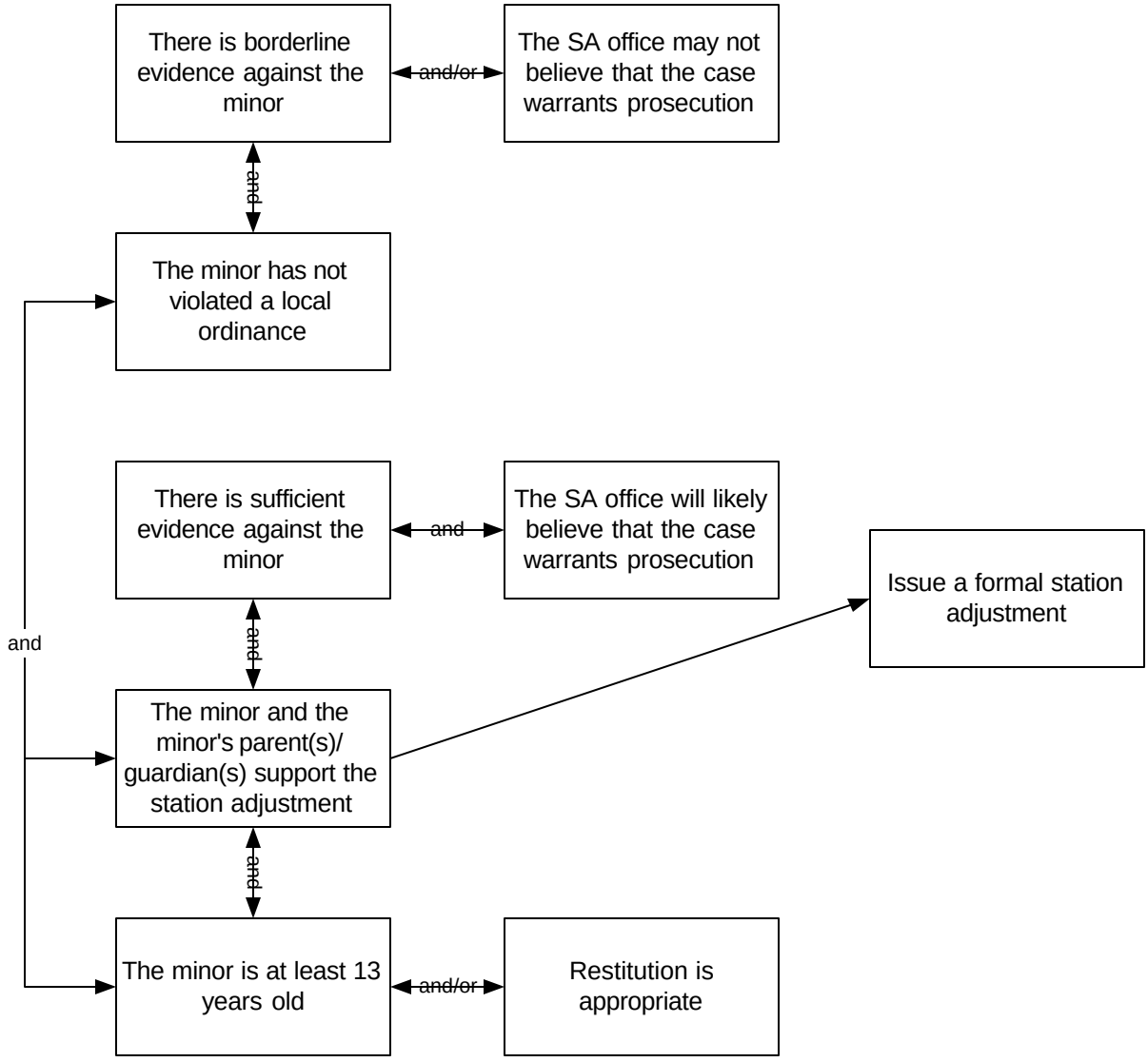
Figure 4 shows the decision-making process that the juvenile investigator adopts when determining that it is appropriate to issue a formal station adjustment. Figure 4 shows that, irrespective of any other combination of factors, in order for the juvenile investigator to issue a formal station adjustment, the minor and the minor's parent(s) or guardian(s) must agree to the formal station adjustment. Because the minor and the minor's parent(s) or guardian(s) must sign a form and agree to abide by station adjustment conditions, there are no "forced' formal station adjustments (minors and their parent(s) or guardian(s) also have 30 days to rescind a formal station adjustment that they have agreed to).

Figure 4 shows that there are two separate decision-making processes in which the juvenile investigator may issue a formal station adjustment. In both processes, it is likely that "the minor is at least 13 years old" and/or "restitution is appropriate". In both processes, it is necessary that "the minor and the minor's parent(s) or guardian(s) support the station adjustment".

The first path may be referred to as the "leverage" process. In this process, "there is sufficient evidence against the minor" and "the state's attorney's office will likely believe that the case warrants prosecution". Thus, the juvenile investigator could refer the case to the state's attorney's office. Instead, he offers a formal station adjustment to the minor and the minor's parent(s) or guardian(s), informing them that if they opt against the formal station adjustment or fail to abide by the conditions of the formal station adjustment, then the case will be referred to the state's attorney for potential prosecution. This is the typical process by which minor's receive formal adjustments

and, typically, minor's and minor's parent(s) or guardian(s) support the formal station adjustment because they prefer to avoid going to court, having the offense on the minor's criminal history record, etc. The threat of a court referral provides the juvenile investigator with leverage to ensure that the minor will abide by the formal station adjustment.

Figure 4: Decision-Making Process for Issuing a Formal Station Adjustment



The second process may be referred to as the "no leverage" process. With this process, a court referral is not possible because the juvenile investigator believes that the state's attorney's office will not support the case (because "there is borderline evidence against the minor" and/or "the state's attorney's office may not believe that the case warrants prosecution") and "the minor has not violated a local ordinance violation". In such cases, the juvenile investigator may still offer a formal station adjustment, but has less leverage because he cannot use a potential court referral to gain compliance.

Option 4: Issuing a Local Ordinance Violation

Figure 5 shows the decision-making process that the juvenile investigator adopts when determining that it is appropriate to issue a local ordinance violation. Local ordinance violations are issued when the minor may be appropriate for a formal station adjustment (because "the minor is at least 13 years old" and/or "restitution is appropriate"), but "the minor and/or the minor's parent(s) or guardian(s) do not support the station adjustment" and the state's attorney's office may not support the case (because "there is borderline evidence against the minor" and/or "the state's attorney's office may not believe that the case warrants prosecution"). In such instances, when the offense involves a local ordinance, then the juvenile investigator may issue a local ordinance violation.

Option 5: Court Referral

Figure 6 shows the decision-making process that the juvenile investigator adopts when determining that it is appropriate to refer a minor to court. Figure 6 shows that there are two separate decision-making processes in which the juvenile investigator may refer a minor to court. For both decision-making processes, the juvenile investigator

believes that “there is sufficient evidence against the minor” and “the state’s attorney’s office will likely believe that the case warrants prosecution”.

In the first process, a formal station adjustment is offered to the minor, but “the minor and/or the minor’s parent(s) or guardian(s) do not support a formal station adjustment”. Thus, the minor is referred to court. In the second process, the juvenile investigator does not even consider a formal station adjustment (i.e., “a formal station adjustment is not appropriate”), perhaps because the offense is too serious, the minor is a repeat offender, or the minor is close to becoming an adult.

Figure 5: Decision-Making Process for Issuing a Local Ordinance Violation

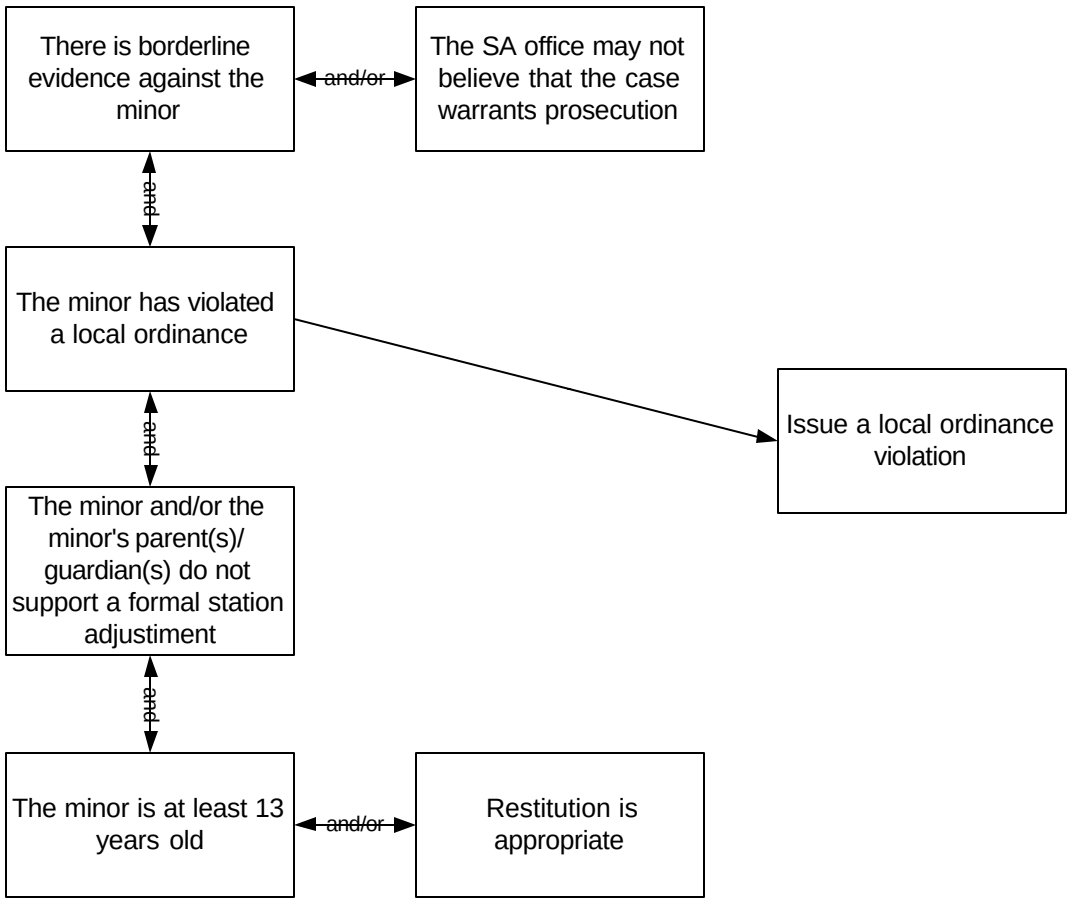
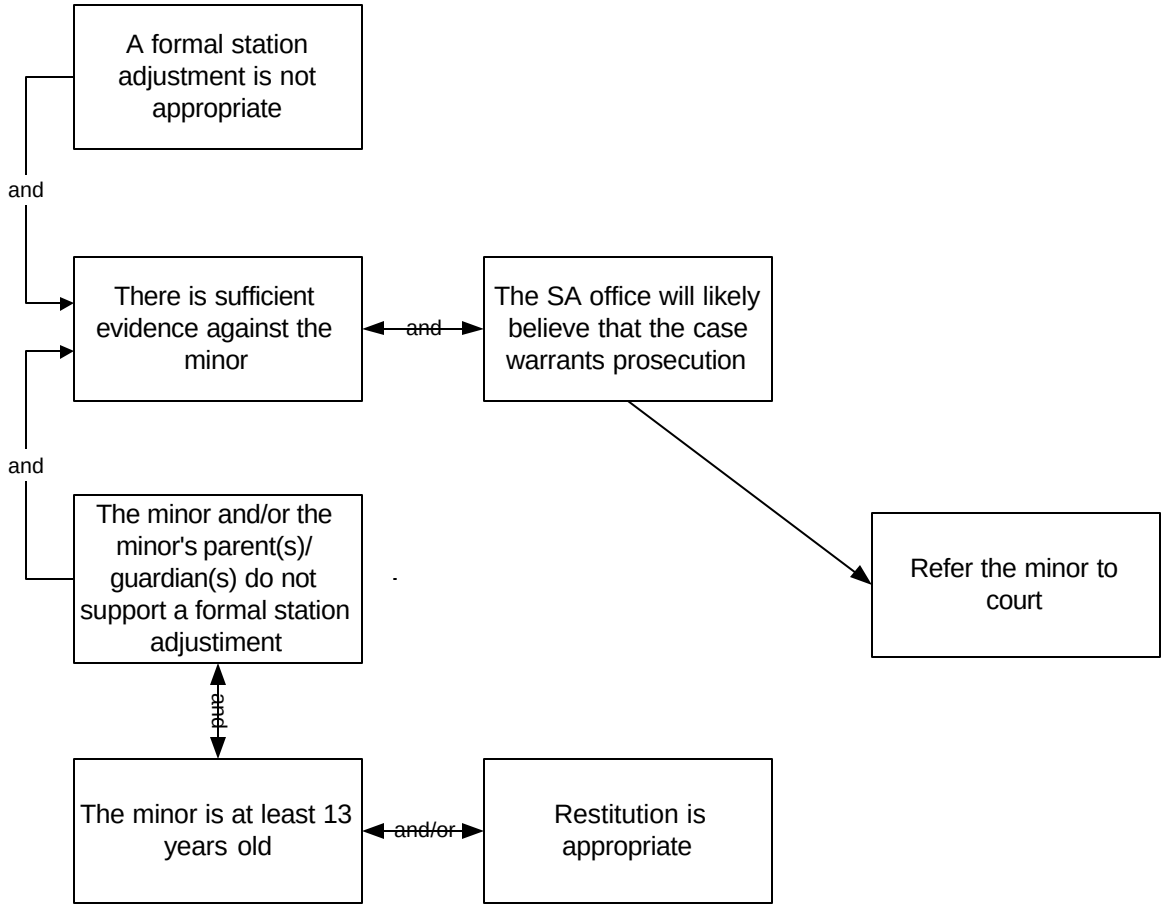


Figure 6: Decision-Making Process for Referring a Minor to Court



The Minor's Case

The juvenile investigator was asked to state the factors that led him to issue the minor a formal station adjustment. The juvenile investigator stated that the minor's case was appropriate for a station adjustment (formal or informal) because the offense was a non-violent misdemeanor offense and the minor had no prior criminal history. The minor's mother also reported that, when the juvenile investigator spoke to her and the minor at the police station, he stated that the station adjustment was appropriate because the minor had no prior criminal history record.

The juvenile investigator believed that a formal station adjustment was more appropriate than an informal station adjustment because: (1) after being arrested, the minor had not yet returned to the money that he took from his place of employment (thus, restitution was appropriate), (2) the minor was over 13 and, therefore, an appropriate candidate for the village's peer jury program, and (3) the minor revealed to the juvenile investigator that he agreed to make the false transaction at his place of employment because he owed money to the other individual who was involved in the offense (the friend who brought the heater up to the minor's cash register) for marijuana that he had previously been given. The juvenile investigator stated that, because the offense involved drug use, it was too serious to handle via informal station adjustment. Moreover, the peer jury program is appropriate for cases involving possession of marijuana. Therefore, the peer jury program could address the minor's admitted drug use.

The juvenile investigator also believed that he had sufficient evidence against the minor (a store videotape, store transaction ledgers) and that, because the offense involved the repayment of a drug debt, the state's attorney's office would have been willing to prosecute. He believed he could have referred the minor's case to court. Thus, he had "leverage" because he could tell the minor and the minor's mother that the alternative to the formal station adjustment was a court referral. He offered the minor and the minor's mother the option of paying restitution and attending peer jury or having the case referred to court. The minor's mother reported that, at the police station, the juvenile investigator explicitly stated the opinion to her and the minor that the formal station adjustment was a better option. The minor's mother agreed, stating that, at the time, she did not want the case to go to court. She also stated that the minor agreed with the juvenile investigator's

opinion. In addition, at several points during the interview with the minor's mother, she was critical of the minor's behavior, stating that the retail theft was "stupid" in an exasperated tone. She also stated that, after receiving the formal station adjustment, the minor made statements indicating that his behavior was unwise.

The juvenile investigator also reported that the minor's mother made comments at the police station suggesting that the conditions of the station adjustment were too lenient a response to the minor's offense. The juvenile investigator stated that he had the impression that the minor's mother was surprised when the minor informed her that he committed the offense to repay a marijuana debt and this may have led the minor's mother to suggest that the conditions of the station adjustment be more punitive. The juvenile investigator stated that he told the minor's mother that, because he did not have direct evidence of the minor's drug use, he could not respond to the minor's offense as if he had arrested him for marijuana. He also stated that he informed the minor's mother that peer jury could address the marijuana use and stated that he gave the minor's mother a referral to a social service agency that provides drug counseling.

During the interview with the minor's mother, she seemed to believe that the minor used drugs, but also believed that there are aspects of the offense that the minor has not revealed. The other individual involved in the offense (the individual who brought the heater to the minor's cash register) had not been arrested, primarily because the minor had covered for him. In the minor's mother's opinion, because the minor had been so equivocal about the offense, repayment of a drug debt might not have been the sole reason for the offense.

Overall, the fact that the minor and his mother supported the formal station adjustment, the minor was remorseful for the offense, and the minor's mother mildly rebuked the minor for his behavior likely contributed to the juvenile investigator's decision to issue a formal station adjustment as opposed to referring the minor to court.

The manager of the hardware store stated that the juvenile investigator called her after the station adjustment was issued and explained the station adjustment to her. When asked about the conversation, the juvenile investigator stated that he typically calls victims to inform them of how he is going to resolve the case and, if necessary, to inform them that he will do his best to ensure that the minor pays restitution. During the conversation, the juvenile investigator told her that the minor had admitted to having stolen several other small items from the store while he was employed there. The juvenile investigator also told her that, because he had no direct evidence, he could not make the minor pay for these items. When asked her opinion of the minor's station adjustment conditions, she stated that the restitution would have been more fair had the minor been required to pay for the additional items that he admitted to having stolen. However, during the conversation with the juvenile investigator, she told the juvenile investigator that she was in favor of the station adjustment as opposed to a court referral. She stated during the interview that anyone can make a mistake, especially at such a young age. Therefore, the minor should be given a chance to learn from his mistake without facing severe repercussions.

The Station Adjustment Process

This section describes how juvenile cases are handled by the law enforcement agency, with an emphasis on how cases are handled when minors are issued formal

station adjustments or informal station adjustments. Prior to arriving at the police station, all juvenile arrests tend to be handled in approximately the same manner. However, there are some differences in how cases that are resolved by different options are handled once the minor arrives at the police station, is handed over to a juvenile investigator, and the juvenile investigator had decided how to handle the case.

The juvenile investigator reported that, prior to arriving at the police station, most juvenile arrests are made by patrol officers who are working in the area where the crime occurred. The nearest patrol officers are called to respond to reports of criminal activity, irrespective of whether the offense has been committed by an adult or juvenile offender. Typically, the patrol officer will not be the individual who decides how the minor's case should eventually be handled (e.g., the patrol officer will not decide whether the minor should receive a station adjustment). Their job is to respond to the reported crime and, if necessary, apprehend the offender and bring him or her to the police station. If the patrol officer is able to make an arrest, then, if the offender is a minor, the patrol officer will hand the minor's case over to a juvenile investigator once they arrive at the police station. The juvenile investigator stated that minors who are arrested by a patrol officer (whether or not they are eventually issued a station adjustment) almost always arrive at the station in handcuffs. This is one indication that patrol officers handle all juvenile arrests in approximately the same manner and, perhaps, juvenile arrests are handled in approximately the same manner as adult arrests. Minors who are issued station adjustments may be apprehended and taken to the police station using approximately the same procedures that are used for more serious offenders.

Some patrol officers in the law enforcement agency have been certified to handle juvenile cases. Juvenile patrol officers are not specifically contacted to make juvenile arrests. However, if a juvenile patrol officer is the nearest officer to an offense involving a juvenile (and is called by the dispatcher to handle the case), then the juvenile patrol officer need not hand the case over to a juvenile investigator. The juvenile patrol officer can conduct the investigation and decide how the case should be handled. However, the juvenile investigator reported that a vast majority (he estimated 98%) of the juvenile arrests made by the law enforcement agency are subsequently handled by juvenile investigators, suggesting that juvenile patrol officers do not typically handle juvenile cases themselves. Nonetheless, it is conceivable that, because of their training, juvenile patrol officers treat minors differently when making an arrest than patrol officers who are not trained to handle juvenile cases (e.g., perhaps they communicate with the minor differently).

Finally, it was noted above that there are instances when the juvenile investigator handles a case, then the minor's parents subsequently contact him again because the minor has continued to exhibit negative behavior. The juvenile investigator reported that this is a fairly frequent occurrence. In such cases, the juvenile investigator handles the case himself, and may choose to arrest the minor. Because the juvenile investigator knows the minor and the minor's situation, he likely handles the case differently than a patrol officer who is unfamiliar with the case.

At the Police Station

Just as the juvenile arrest process tends to be fairly uniform across cases, the juvenile investigator reported that, until he determines how to resolve a particular case,

the process for handling each juvenile case is approximately the same. Shortly after arriving at the police station, minors are read their Miranda rights by the juvenile investigator. The juvenile investigator reported that it is quite common for the investigating officer to read offenders their Miranda rights, as opposed to the arresting patrol officer. Minors are then asked for a phone number where their parent(s) or guardian(s) may be reached. Parents are always contacted and required to pick the minor up at the police station, regardless how the case is resolved.

Next, the minor is seated in an interview room. The juvenile investigator then proceeds to ask the minor a number of questions. The juvenile investigator stated that, before discussing the offense with the minor, he begins by finding out about the minor's family situation and recent school performance. While he is asking these questions, his partner is contacting the minor's parents.

The parents are informed about the offense that the minor is arrested for, told that the juvenile investigator intends to discuss the offense with the minor, asked whether they would like to speak to the minor before the juvenile investigator proceeds, and asked to come to the police station. The juvenile investigator stated that parents typically allow him to continue his investigation without speaking to the minor themselves.

The juvenile investigator reported that he then proceeds to take a written or verbal statement from the minor about the offense. Written statements are used more often than verbal statements because, should the investigator decide to issue a formal station adjustment, the minor must admit to the offense. Should the minor choose to admit to the offense, then the written statement serves as the admission. Moreover, a written admission is necessary in order for the minor to be eligible for the peer jury program.

Finally, the juvenile investigator reported that a written statement assists in ensuring that minors will follow through with their station adjustment conditions because the minor may be informed that the written statement could be sent to the state's attorney's office if he fails to abide by the station adjustment conditions.

After the minor makes a statement, the minor's parents are invited into the interview room. If the minor admitted to the offense, then the minor is asked to make a verbal admission to his parents, in an attempt to make the minor directly accountable to his parents. After this, the juvenile investigator indicates to the minor and his or her parents how he would like to handle the case. The investigator stated that, after he indicates how he would like to handle the case, he provides the minor and his or her parents with the opportunity to comment, raise concerns, question the decision, etc. It is at this point that the process differs, depending on how the case is resolved.

<u>Option 1: Dismissing the case</u>

- The minor is released into his or her parent's custody.

The juvenile investigator tends to only dismiss cases if he lacks evidence against the minor. If a case is dismissed, then the minor is released into his or her parent's custody. No case file is created on the minor. If the juvenile investigator believes that the minor committed the offense, then the minor may be issued a verbal warning.

<u>Option 2: Issuing an informal station adjustment</u>

- The juvenile investigator discusses the offense and the minor's behavior with the minor and the minor's parent(s) or guardian(s).
- On rare occasion (the juvenile investigator estimated 5% of the cases involving an informal station adjustment), the minor is given station adjustment conditions.

- The minor is released into his or her parent's custody.
- A case file is created on the minor.

The primary distinction between an informal station adjustment and dismissing the case tends to be that the juvenile investigator speaks to the minor and the minor's parent(s) or guardian(s) about the offense at greater length and then documents that the minor was at the police station by creating a file.

Option 3: Issuing a formal station adjustment

- The juvenile investigator discusses the offense and the minor's behavior with the minor and the minor's parent(s) or guardian(s).
- The minor is almost always given station adjustment conditions.
- The minor and the minor's parent(s) or guardian(s) must sign a form stating that they agree to the formal station adjustment and the station adjustment conditions.
- The minor is released into his or her parent's custody.
- A case file is created on the minor.

The primary distinction between the formal station adjustment process and the informal station adjustment process is that minors who are issued formal station adjustments by the juvenile investigator are almost always asked to complete station adjustment conditions. However, in order to issue a formal station adjustment, the minor and the minor's parent(s) or guardian(s) must agree to the station adjustment in writing. The Illinois Juvenile Court Act lists the information that must be included in the written agreement (see page 146 for the information that must be included in the written agreement).

The law enforcement agency has developed a formal station adjustment agreement form that includes each of the elements required by the Illinois Juvenile Court Act. Specifically, the form includes general information on the juvenile records expungement process and a statement indicating that the admission may be used in future court hearings. In addition, the form includes a general statement indicating that the minor and the minor's parent(s) or guardian(s) have been informed of the terms and conditions of the station adjustment, with spaces below the general statement for the minor, the minor's parent(s) or guardian(s), and the juvenile officer to sign the form. Finally, the form includes spaces where juvenile officers may write in the offense and station adjustment conditions.

The Illinois Juvenile Court Act also states that, after a formal station adjustment is issued, the minor and/or the minor's parent(s) or guardian(s) have 30 days to rescind the station adjustment agreement (705 ILCS 405/5-301 (2) (g)). This information appears on the agency's formal station adjustment agreement form. The juvenile investigator also mentions to minors and minor's parent(s) or guardian(s) that they may rescind the station adjustment. Individuals wishing to rescind the formal station adjustment must do so in writing and provide the letter directly to the juvenile officer who issued the station adjustment or the officer's supervisor. The Illinois Juvenile Court Act also states that, if a formal station adjustment is rescinded, then the case is referred to court. The juvenile investigator noted that no formal station adjustment that he has issued has ever been rescinded.

The Illinois Juvenile Court Act does not provide the 30 day opportunity to rescind for informal station adjustments. Consistent with this, the juvenile investigator reported

that he only offers the 30 day opportunity to rescind when he issues a formal station adjustment.

Option 4 or Option 5: Issuing a local ordinance violation or making a court referral

- The juvenile investigator discusses the offense and the minor's behavior with the minor and the minor's parent(s) or guardian(s).
- The minor and the minor's parent(s) or guardian(s) are told that they will be informed of their court date.
- The minor is released into his or her parent's custody.
- A case file is created on the minor.

For court referrals, the juvenile investigator typically adopts approximately the same process as for other options. However, minors and their parent(s) or guardian(s) are told that they will be informed of their court date.

The Minor's Case

After the store manager was told to contact the police, she called 911 and reported the offense to a 911 operator who, in turn, contacted the law enforcement agency. A patrol officer (who was not a member of the juvenile patrol officer unit) went to the hardware store and arrested the minor. The patrol officer handcuffed the minor and took him to the police station, where he was handed over to the juvenile investigator. The manager of the hardware store noted that, when the minor was handcuffed by the patrol officer, the minor was visibly dismayed and embarrassed, and made a groaning sound as if to say "do you have to put me in handcuffs?" The store manager commented that having to walk out of the store in handcuffs may have had enough impact on the minor to prevent him from engaging in further criminal activity.

The juvenile investigator read the minor his Miranda rights, discussed the minor's family and school situation, discussed the offense with the minor, and obtained a written admission from the minor. The minor's mother was brought into the interview room, whereupon the minor described the offense to his mother. The juvenile investigator stated that he wanted to issue the minor a formal station adjustment, and explained the station adjustment and station adjustment conditions to the minor. The juvenile investigator explained that, in lieu of the formal station adjustment, the minor's case would be referred to court.

Upon agreeing to the formal station adjustment and the station adjustment conditions, the minor and the minor's mother were asked to sign a station adjustment form. The minor and/or the minor's parents did not subsequently choose to rescind the formal station adjustment.

The minor's mother was asked her opinion on how the minor was treated at the police station. She stated that she was quite satisfied with how the juvenile investigator handled the minor's case, noting that one of her other sons was involved in the juvenile justice system for a minor offense and she was much more satisfied with how the minor's case was handled. She noted that the minor was treated like an adult and it was made clear to him that there would be consequences for his actions. Finally, she stated that the station adjustment and the station adjustment conditions were fully explained to the minor and herself. She fully understood the station adjustment and believes that the minor did as well.

Station Adjustment Conditions

The Illinois Juvenile Court Act lists conditions that juvenile officers may impose when they issue informal station adjustments and formal station adjustments (see Table 6). The juvenile investigator was asked about the conditions that he generally issues for both formal and informal station adjustments. Because the juvenile investigator stated that he very rarely imposes conditions on minors who are issued informal station adjustments, he was unable to state which conditions he typically imposes for informal station adjustments. He was able to assert that, if he issues an informal station adjustment, but the case involves restitution, he would require the minor to pay restitution.

The juvenile investigator was asked whether he imposes each of the formal station adjustment conditions included in the Illinois Juvenile Court Act and, if so, then how often he imposes the condition. This information is summarized in Table 9.

Restitution and Peer Jury

Table 9 shows that, according to the juvenile investigator, the most common formal station adjustment conditions that he imposes are restitution and participation in the village's peer jury program. The law enforcement agency believes that it is important for minors to make financial reparations to victims. Thus, juvenile officers require restitution in nearly every instance when the offense involves a monetary loss to a victim. Table 8 shows that, in 2000, the juvenile investigator only required restitution in one case. However, he inquired about restitution in every case (involving both formal and informal station adjustments) for which restitution might be appropriate.

Table 9: The Use of Formal Station Adjustment Conditions in the Law Enforcement Agency

Condition	Frequency	Reason
Attending school.	Never	The condition is difficult to enforce/monitor.
Abiding by a set curfew.	Never	The condition is difficult to enforce/monitor.
Payment of restitution.	Often	The law enforcement agency believes that victim reparation is important.
Refraining from possessing a firearm or other weapon.	Never	This condition is not appropriate for a station adjustment.
Reporting to a police officer at designated times and places, including reporting and verification that the minor is at home at designated hours.	Never	The condition is difficult to enforce/monitor.
Performing up to 25 hours of community service work.	Never	Community service is always given through peer jury.
Refraining from entering designated geographical areas.	Sometimes	This might be tacked on to an adjustment plan, but it is difficult to enforce/monitor.
Participating in community mediation.	Never	There is no local community mediation program.
Participating in teen court or peer court.	Often	A local peer court program exists, and is strongly linked with the juvenile investigations unit.
Refraining from contact with specified persons.	Sometimes	This might be tacked on to an adjustment plan, but it is difficult to enforce/monitor.

The peer jury program is closely linked with the work of the juvenile investigation unit in the law enforcement agency. The juvenile investigator's partner is in charge of offender admissions to peer jury. A great deal of effort was put forth to develop the program. Thus, the law enforcement agency would like the program to succeed.

Minors may only be referred to the peer jury program if they admit to the offense and if the minor and the minor's parent(s) or guardian(s) sign a form stating that they consent to participate in the program. This is very similar to the process by which minors are issued formal station adjustments (in which the minor must also admit to the offense

and the minor and the minor's parent(s) or guardian(s) must agree to the formal station adjustment in writing). The village's peer jury manual states that juvenile officers have discretion over the cases they refer to the program, but includes a list of sample offenses that may be appropriate for peer jury. The list includes the following offenses: assault, criminal trespass to land, curfew, disorderly conduct, hate crime, initiating a false police report, intimidation, possession of drug paraphernalia, possession of marijuana, telephone harassment, theft, retail theft, theft of services, and vandalism. The manual states that the objective of the program is "to help the child and family deal with a problem situation in a constructive and positive manner".

The minor and the minor's parent(s) or guardian(s) are given a specific time and date to attend peer jury. At least one parent or guardian must attend the peer jury hearing with the minor. Because the minor has already admitted guilt prior to the peer jury hearing, the purpose of the hearing is not to establish guilt or innocence. Instead, the purpose is to determine an appropriate sentence that is decided upon by the minor's peers, outside of juvenile court. The peer jury hearing has many of the elements of an actual court proceeding. A bailiff escorts the minor and the minor's parent(s) or guardian(s) into the "courtroom" (a room at the police station). The hearing is presided over by an adult moderator, who adopts the demeanor of a judge (indeed, the minor's mother had thought that the moderator at the minor's peer jury hearing was an actual judge when, in fact, she is a school teacher). The hearing begins with a juvenile officer stating the offense that the minor is charged with, summarizing the facts of the case, and stating the potential sentence if the minor were an adult.

At this point, the minor and, in some instances, the minor's parent(s) or guardian(s) and the juvenile officer are asked questions by six peer jurors. The moderator simply monitors the proceedings (i.e., does not ask the minor questions). The jurors are recruited from local high schools and other areas accessible to teens. Jurors must be 13 to 17 years old, live in the community, and have no involvement with law enforcement in the last six months. Interested teenagers are selected as jurors through an application and interview process. Selected jurors are provided with example questions to ask of the minor, the minor's parent(s) or guardian(s), and the juvenile officer. The questions to the minor address the offense (e.g., "What was going on in your mind when you committed the offense?"), the consequences of the offense (e.g., "Do you think your family trusts you now that you have committed the offense?"), and the minor's family and social situation (e.g., "Do you go places or do things with your family?").

After the jurors have finished questioning the minor, the minor and the minor's parent(s) or guardian(s) are escorted out of the courtroom while the jury and the moderator deliberate on the minor's sentence. The peer jury manual does not specify conditions that may be imposed. However, a major part of the program's development involved contacting community agencies requesting their participation in the program as potential community service sites. The juvenile investigator reported that a typical peer jury sentence will include community service.

After the minor's sentence has been determined, the minor and the minor's parent(s) or guardian(s) are escorted back into the courtroom and the minor's sentence is announced by the moderator. Minors are typically given a month to complete the sentence. The sentence is monitored by an adult peer jury coordinator. The minor and

the minor's mother are given a new peer jury date, where the minor's progress towards the completion of the sentence is examined. If the minor fails to complete the sentence, the case may be referred back to the juvenile officer, who may refer the case to the state's attorney's office.

Other Potential Station Adjustment Conditions

Table 9 shows that there are six potential formal station adjustment conditions which appear in the Illinois Juvenile Court Act, but which the juvenile investigator reported that he has never imposed upon a minor in a formal station adjustment plan. For three of these potential conditions (school attendance, abiding by a set curfew, and requiring the minor to report to the police officer at designated times and locations), the juvenile investigator reported that he does not include them in station adjustment plans because it is difficult to monitor and enforce them. The juvenile investigator stated that he could conceivably include these conditions, but it would be nothing more than a token gesture because he is limited in his ability to ensure that the minor follows through. Moreover, the juvenile investigator emphasized that, even if he did impose these conditions on minors who are issued formal station adjustments, his role as a police officer does not provide him with sufficient ability to deal with the underlying problems that are causing the minor to perform poorly in school or to stay out late. Thus, he does not include these conditions at all.

The other three potential conditions that the juvenile investigator never imposes are refraining from possessing firearms or other weapons, performing community service work, and participating in community mediation. The juvenile investigator reported that formal station adjustments are typically issued for relatively minor offenses and it would

be unnecessary to specifically include a condition prohibiting weapon possession. He also noted that it is unnecessary to impose community service because, if he believes that the minor should perform community service, then he can refer the minor to peer jury, where the minor will almost certainly be required to perform community service as part of the peer jury sentence and where a system is in place to monitor the minor's community service. Finally, no community mediation program is available for the juvenile investigator to refer minors to.

Table 9 shows that there are two potential conditions included in the Illinois Juvenile Court Act that the juvenile investigator reported that he sometimes imposes upon minors. These are conditions prohibiting the minor from entering a geographical area or having contact with specified persons. Table 8 shows that the juvenile investigator imposed one of these conditions on one minor in 2000. The juvenile investigator reported that, while he is unable to effectively monitor or enforce these conditions to ensure that the minor abides by them, there may be instances when he learns that the minor has failed to abide by the conditions (e.g., by receiving a phone call from a victim or a store that had been robbed by the minor). If he includes these conditions on a station adjustment plan, it provides him with more justification for responding to the situation and, thereby, protecting the minor's victim.

In addition to the conditions listed in Table 9, the Illinois Juvenile Court Act also states that juvenile officers may include a condition which states that "the minor shall not violate any laws" during the time in which the minor is completing the station adjustment plan (see Table 6). The juvenile investigator stated that he generally does not include this condition on station adjustment plans (although Table 8 shows that the juvenile

investigator imposed a variant of this condition "No further instances of violence" on one minor in 2000). Instead, he usually warns the minor verbally to remain crime-free.

Finally, the juvenile investigator reported that there is one other course of action that he often takes when issuing either type of station adjustment. Specifically, the juvenile investigator makes referrals to appropriate social service agencies. Table 8 shows that the juvenile investigator frequently makes social service referrals, particularly for runaways. The juvenile investigator makes the referrals based on the interview he has with the minor at the police station. The juvenile investigator does not mandate that the minor and the minor's parent(s) or guardian(s) follow through and obtain services for the minor. Thus, the juvenile investigator does not include, for example, counseling on a formal station adjustment plan. Instead, he emphasizes to the minor's parent(s) or guardian(s) that services can address the causes of the minor's delinquent behavior. If he comes in contact with the same minor again in the future, then he inquires to the minor's parent(s) or guardian(s) whether they followed through and sought services for the minor.

Timelines to Complete Station Adjustment Plans

The Illinois Juvenile Court Act states that minors shall have no more than 120 days to complete their station adjustment plans (see Table 6). The juvenile investigator was asked about the timelines that he imposes upon minors who are issued formal station adjustments. The juvenile investigator stated that he generally does not include specific time limits in station adjustment plans. In fact, the only condition that he imposes in formal station adjustments for which a timeline may be necessary is restitution. He generally writes on the plan that minors are to pay their restitution "in a reasonable period

of time" and, despite this lack of specificity, has had little difficulty getting minors to pay their restitution in a timely manner.

Minors who are referred to peer jury are asked to attend the next scheduled peer jury session after the station adjustment. Sessions are scheduled monthly or bi-monthly, depending on the number of referrals to the program. Once minors are scheduled to attend peer jury, then the moderator determines timelines for sentence completion, making it unnecessary for such timelines to be included in a station adjustment plan.

The only other conditions that the juvenile investigator may include in a station adjustment plan are restrictions from entering geographic locations or having contact with specific individuals. These conditions are intended to continue for an indefinite period of time and, therefore, do not require timelines.

The Minor's Case

The minor's station adjustment plan included the following two conditions:

- Pay $108.22 in restitution directly to the hardware store in "a reasonable period of time".
- Attend the next scheduled peer jury session (on March 9, 2001).

The minor was arrested and issued the formal station adjustment on January 31, 2001. He paid his restitution directly to the hardware store on March 9, 2001. Shortly thereafter, the juvenile investigator contacted the hardware store to inquire whether the restitution had been paid and was informed that the store had received the money.

The minor and his mother attended the peer jury session on March 9, 2001. The minor's mother described the session as a good learning experience for the minor. She stated that the minor became quite intimidated when the peer jurors began to ask him

questions about the offense. The minor's mother reported that many of the questions focused on the offense and the minor's reasons for perpetrating the offense. The peer jury imposed the following conditions on the minor:

- Write a three page letter to the court on the following topic: "How drug use would effect your future life physically, financially, and emotionally".
- Complete 25 hours of community service with the village's park district.

The minor had one month to complete the peer jury sentence. The minor completed the sentence. He may have been granted additional time to complete the community service. The minor's mother noted during the interview that she was concerned as to whether the minor would complete the community service on time because, on two occasions, the minor had shown up for community service at the scheduled time, but no one arrived to assign the minor tasks, record his community service hours, etc.

Monitoring Station Adjustment Conditions

The Illinois Juvenile Court Act does not specify who should monitor station adjustment conditions once they have been imposed by a juvenile officer. The juvenile investigator stated that, if he includes conditions in an informal station adjustment, then he typically does not monitor the conditions himself. He states the conditions to the minor's parent(s) or guardian(s) and asks them to monitor the conditions. Typically, if he imposes conditions in an informal station adjustment, they are ones that would be difficult to monitor (e.g., avoiding a geographic location).

For formal station adjustments, the juvenile investigator typically only monitors restitution. If the minor is referred to peer jury, then the additional conditions imposed

by the court are monitored by the peer jury coordinator. In general, because he is limited in the time that he has available to devote to enforcing and monitoring station adjustment conditions, the juvenile investigator avoids imposing conditions which are difficult to monitor.

The juvenile investigator was asked whether the law enforcement agency and/or other law enforcement agencies in the county have attempted to collaborate with the county probation department or reach an arrangement where the probation department monitors conditions that are imposed on minors. The juvenile investigator was asked this question because of another change that the Juvenile Justice Reform Provisions of 1998 made to the Illinois Juvenile Court Act. The Illinois Juvenile Court Act now allows probation officers to issue *probation adjustments.* Probation adjustments are very similar to station adjustments, except that they are initiated by juvenile probation officers instead of by juvenile police officers. The Illinois Juvenile Court Act allows probation officers to convene a preliminary conference with a minor, the minor's parent(s) or guardian(s), juvenile police officers, and other interested parties. The purpose of the conference is to develop a probation adjustment plan that will enable the minor to avoid having his or her case referred to court. The Illinois Juvenile Court Act provides a list of probation adjustment plan conditions.

Given this provision in the Illinois Juvenile Court Act, it would seem possible for a police agency to collaborate with a local probation department on probation adjustments. For example, imagine that a juvenile police officer arrests a minor and, upon talking to the minor, believes that a station adjustment is an appropriate course of action. Furthermore, imagine that the juvenile officer believes that a curfew would be an

appropriate component of the station adjustment plan, but knows that, given his duties and responsibilities, he will not have time to make sure that the minor abides by the curfew. If the police agency has a collaborative relationship with the local probation department then, instead of simply deciding not to impose the curfew, the police officer could contact the probation department and ask if a juvenile probation officer is willing to request a probation adjustment for the minor.

The probation adjustment section in the Illinois Juvenile Court Act seems to allow for such relationships to develop. First, the section indicates that probation officers may include police officers in the probation adjustment conference process. Second, the section allows probation officers a great deal of latitude in determining probation adjustment plan conditions, stating that probation officers may impose "any other appropriate action with the consent of the minor and a parent". Thus, for example, if a police officer would like to see the minor have a curfew, a probation officer could include this in a probation adjustment plan, then assist in monitoring the curfew.

Currently, the law enforcement agency has no such relationship with the local probation department. The juvenile investigator stated that, after the changes to the Illinois Juvenile Court Act took effect, he made several inquiries regarding whether probation adjustments would be used in his jurisdiction. He was told that his jurisdiction currently has no plans to use probation adjustments. In the juvenile investigator's opinion, it would be difficult to organize and coordinate probation adjustments because the agency is located in a large jurisdiction. Thus, probation officers are likely to have large caseloads, thereby limiting the time they would have available for probation adjustments. Moreover, because the jurisdiction has a large number of juvenile police

officers and juvenile probation officers, effective communication between police officers and probation officers would likely be difficult.

Consequences Should Minors Fail to Abide by Station Adjustment Conditions

The Illinois Juvenile Court Act lists potential consequences to minors who fail to abide by formal or informal station adjustment conditions (see Table 6).

Informal Station Adjustments

When minors fail to abide by the conditions of an informal station adjustment, the Illinois Juvenile Court Act states that the juvenile officer may issue a formal station adjustment or refer the matter to the state's attorney's office. Again, the juvenile investigator typically does not impose conditions on minors who are issued informal station adjustments. When a condition is imposed on a minor who is issued an informal station adjustment, it is typically not monitored by the juvenile investigator. The juvenile investigator noted that there may be instances when he issues a minor an informal station adjustment and the minor's parent(s) or guardian(s) subsequently contact him to inform him that the minor is still exhibiting negative behavior. In such instances, the juvenile investigator will talk to the minor, perhaps issue another informal station adjustment, and perhaps make a social service referral (if he had not done so when he issued the initial informal station adjustment). He stated that he has never issued a minor an informal station adjustment and then, as a consequence of failing to abide by station adjustment conditions, issued a formal station adjustment or referred the minor's case to the state's attorney's office.

Formal Station Adjustments

The Illinois Juvenile Court Act lists several courses of action that juvenile officers may take when minors fail to abide by the conditions of a formal station adjustment plan (see Table 6). The juvenile investigator reported that he would respond differently in each case, based on the nature of the minor's violation, but that the only courses of action he typically takes among those listed in the Illinois Juvenile Court Act are to "warn the minor of consequences of continued violations and continue the formal station adjustment" or to "terminate the formal station adjustment unsatisfactorily and refer the matter to the juvenile court". Figure 7 shows the consequences to minors for various types of violations.

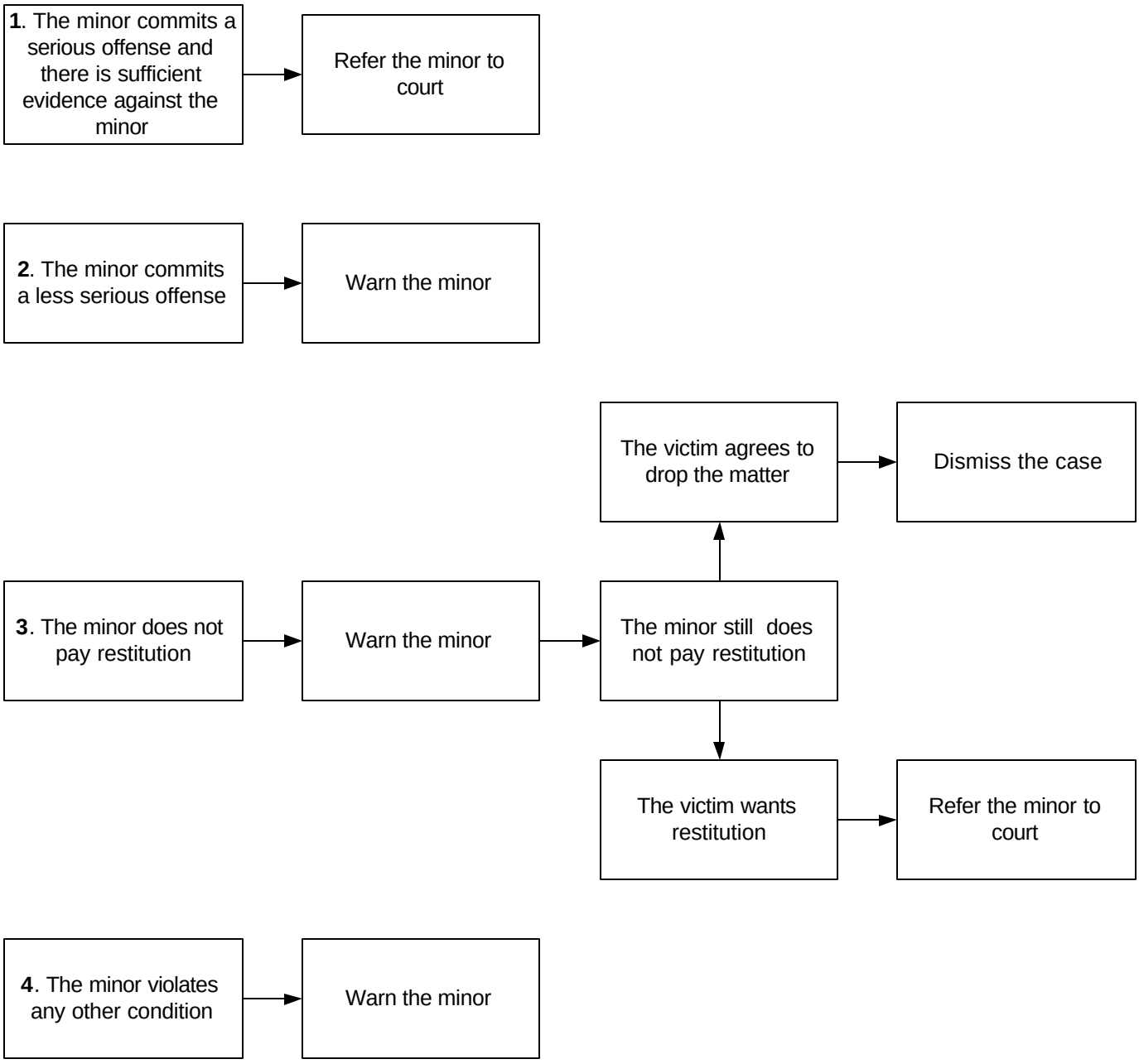
Figure 7 shows that, unless the minor commits a serious offense (Scenario 1 in Figure 7), the juvenile investigator will speak to the minor and issue a verbal warning. However, as a general rule, the juvenile investigator will continue to simply warn minors who commit less serious offenses (Scenario 2 in Figure 7) while completing a formal station adjustment plan (e.g., status offenses, fights in school) or who violate other conditions (Scenario 4 in Figure 7), including failure to abide by a peer jury sentence. The juvenile investigator noted that he has very rarely had to issue such warnings. He also noted that whether or not he refers a case to court after a minor has failed to complete a peer jury sentence would depend largely on the situation and, in particular, the minor's original offense.

Figure 7 also shows that if a minor fails to pay restitution, then the juvenile investigator may refer the minor to court (Scenario 3 in Figure 7). If the minor fails to pay restitution, then the juvenile investigator speaks to the victim. The victim's attitude

determines whether the case is referred to court. If the victim is not particularly concerned about the restitution, then the juvenile investigator would not pursue the case any further. If the victim is concerned about the restitution then, no matter how small the amount, the juvenile investigator would refer the case to court. The juvenile investigator stated that, to ensure that he maintains a good reputation with the state's attorney's office, he would call the office before making such a referral to explain the situation (especially if the minor had been issued a formal station adjustment for a less serious offense). He noted that the state's attorney's office may not prosecute the minor, but if he refers the case to the state's attorney's office he can then re-contact the victim and explain that he had done what he is able to do to ensure that the victim receives restitution. The juvenile investigator noted that minors almost always pay restitution because their parents know that paying restitution is easier than having to hire a lawyer and attend court hearings, should the victim file a complaint in civil court.

The Illinois Juvenile Court Act lists three other responses when minors fail to abide by formal station adjustment conditions: "extend the period of the formal station adjustment up to a total of 180 days", "extend the hours of community service work up to a total of 40 hours", and "terminate the formal station adjustment unsatisfactorily and take no other action". The juvenile investigator noted that he does not use these courses of action. He typically does not put specific time periods on formal station adjustments, decisions regarding community service are made by those directly involved in the peer jury program, and the law enforcement agency does not specifically note in case files that station adjustments have been terminated unsatisfactorily.

Figure 7: Consequences For Failing to Abide by Formal Station Adjustments



The Minor's Case

The minor paid restitution to the hardware store, attended peer jury, and completed the peer jury sentence. When asked her opinion of the minor's station

adjustment conditions, the store manager stated that the restitution would have been more fair had the minor been required to pay for the additional items that he admitted to having stolen from the store. Thus, it may follow that, had the minor failed to pay restitution, the hardware store would not have let the matter drop. They may have wanted the minor's case referred to court.

The juvenile investigator also noted that, had the minor not completed his peer jury sentence, he would have referred the minor to court. The juvenile investigator stated that he would have made this decision because of the nature of the minor's offense. The minor was in a position of trust and betrayed the trust that the hardware store had placed in him by allowing him to handle their money. Moreover, the minor had betrayed the store's trust in order to repay a drug debt.

The Impact of Other Station Adjustment Changes

The juvenile investigator was asked how the agency has responded to the other two significant changes that the Juvenile Justice Reform Provisions made to station adjustment legislation in Illinois: requiring law enforcement agencies to report station adjustments to the Illinois State Police when minors are arrested for a felony offense (and making reporting optional when minors are arrested for a misdemeanor), and placing limits on the number of station adjustments that minors may receive without prior approval of the state's attorney.

The juvenile investigator reported that the law enforcement agency is sending information on all minors who are issued formal station adjustments (for both misdemeanor and felony offenses) to the Illinois State Police. The law enforcement agency does not report informal station adjustments to the Illinois State Police.

The juvenile investigator reported that there has not been an instance when a minor has exceeded the limit on the number of station adjustments that he or she may receive. He stated that his concern, should a limit be exceeded, is that no mechanism is in place where he could call and receive permission to issue another station adjustment or receive instructions to refer the minor to court. In the juvenile investigator's opinion, without such a mechanism, he would be forced to use the same decision-making process that he uses when determining how to resolve a case involving a first time offender. Specifically, he would be forced to consider whether the offense is serious enough to warrant prosecution before he refers the case to the state's attorney's office, even if the minor had been issued a large number of station adjustments in the past.

Conclusions

The Juvenile Justice Reform Provisions made three significant changes in how station adjustments are to be handled and processed (distinguishing between formal and informal station adjustments, placing limits on the number of station adjustments that minors can receive, and requiring that certain station adjustments be reported to the Illinois State Police). This report emphasized the distinction between formal and informal station adjustments, by examining how one law enforcement agency in Illinois is handling station adjustments since the distinction took effect. The report describes the processes underlying the decision to issue a formal station or an informal station adjustment, how cases involving formal and informal station adjustments are handled, the conditions that are imposed upon minors who are issued formal and informal station adjustments, and the consequences should minors fail to abide by the conditions of formal and informal station adjustments.

In addition to providing a general description of how formal and informal station adjustments are being handled in the law enforcement agency, the information obtained for this report enables one to comment on whether the distinction between formal and informal station adjustments is serving a useful purpose or function for juvenile law enforcement practice in Illinois. A common thread between the three primary changes that the Reform Provisions made to the manner in which station adjustments are to be handled is that they were all enacted so that minors would be held accountable for their behavior. A concern prior to the Juvenile Justice Reform Provisions was that minors were getting the message that there are no consequences for their behavior.

The part of the section describing formal and informal station adjustments provide juvenile officers with a great deal of flexibility. Minors who are issued either type of station adjustment can, depending on how the arresting law enforcement agency handles each type of station adjustment, be treated quite leniently or quite punitively. Moreover, the section includes enough flexibility that one law enforcement agency's informal station adjustment practices can be more punitive than another law enforcement agency's formal station adjustment practices.

Nonetheless, the implicit intent of the distinction between formal and informal station adjustments seems to be that juvenile officers should consider, for each juvenile case, the extent to which the minor should be held accountable for their actions by the law enforcement agency. If the juvenile officer believes that the law enforcement agency should play a relatively large role in holding the minor accountable, then the station adjustment section (by making the distinction between two types of station adjustments) seems to imply that the minor should be issued a rigorous, high accountability type of

station adjustment (i.e., a formal station adjustment). The formal station adjustment part of the section provides details on how to issue a rigorous station adjustment and uses language to describe the formal station adjustment that is akin to the manner in which one might describe a probation sentence. The informal station adjustment part of the section includes less detail and uses less "punishment-oriented" terminology.

This section addresses whether the information obtained for this report indicates that the distinction between formal and informal station adjustments has aided in ensuring that certain minors who are issued station adjustments receive a "high accountability" type of station adjustment. Throughout this section, several conclusions are drawn. The conclusions are specific to the law enforcement agency from which information was obtained and, as such, the reader should observe caution in generalizing the conclusions beyond the law enforcement agency. Nonetheless, the conclusions can perhaps aid in identifying issues to be considered as the utility of the Juvenile Justice Reform Provisions are examined in years to come.

Distinctions Between Formal and Informal Station Adjustments

Information included in this report indicates that the law enforcement agency is primarily using informal station adjustments as a means to document that the minor had been at the police station and that the juvenile officer spoke to the minor about the offense. Informal station adjustments are used when minors are young (under 13), have committed certain status offenses (running away and, perhaps, violating curfew), or the offense does not involve restitution. Typically, no conditions are imposed on minors who are issued informal station adjustments. If conditions are imposed, they are typically

monitored by the minor's parent(s) or guardian(s) and there are usually no consequences (from the law enforcement agency) for failure to abide by the conditions.

Formal station adjustments are used when the minor is older (at least 13) or has committed an offense for which restitution is appropriate. There are almost always conditions imposed upon minors who are issued formal station adjustments (typically restitution or participation in peer jury). The formal station adjustment process is more rigorous, requiring that minors and minor's parent(s) or guardian(s) sign a form. The law enforcement agency and/or peer jury coordinators monitor formal station adjustment conditions and minors who fail to abide by formal station adjustment conditions are more likely to face consequences should they fail to abide by conditions.

When asked how he perceives the distinction between formal and informal station adjustments, the juvenile investigator stated that the two types of station adjustments can be distinguished based on the extent to which parent(s) or guardian(s) are given the responsibility for ensuring that minors are held accountable for their actions. According to the juvenile investigator, for informal station adjustments, most of the responsibility for ensuring that minors are held accountable should fall on the shoulders of the minor's parent(s) or guardian(s). For formal station adjustments, more of the responsibility should fall on the shoulders of the law enforcement agency.

Conclusion: *The law enforcement agency handles formal and informal station adjustments in a manner that seems to be consistent with the intent underlying the distinction: to distinguish between a more punitive and less punitive type of station adjustment. Informal station adjustments are handled in a fairly lenient manner, but reserved for instances in which a punitive, high accountability response does not seem*

appropriate. Efforts are made by the law enforcement agency to ensure that minors who are issued formal station adjustments are held fully accountable for their actions.

Changes Made Based on the Distinction

The law enforcement agency handles formal and informal station adjustments in a manner that seems to be consistent with the intent underlying the distinction. However, information obtained for this report indicates that the law enforcement agency did not make any tangible changes after the Juvenile Justice Reform Provisions took effect. According to the juvenile investigator, station adjustments are being handled exactly as they were prior to the distinction. The same factors are being used to determine when to issue station adjustments and how to handle station adjustments. The same conditions are being imposed upon minors and minors face the same consequences for failing to abide by station adjustment conditions.

According to the juvenile investigator, the biggest change made by the distinction is in the nomenclature that the law enforcement agency uses to describe station adjustments. The general term "station adjustment" has been replaced by the more specific "formal station adjustment" and "informal station adjustment". Otherwise, it is "business as usual" for the law enforcement agency. Therefore, if the law enforcement agency is handling formal and informal station adjustments in a manner that is consistent with the intent underlying the distinction, it is not *because of* the distinction. Instead, it may be that the law enforcement agency is using the new nomenclature correctly (i.e., labeling cases as formal or informal station adjustments in a manner consistent with the intent underlying the distinction). Alternatively, the distinction, as described in the Illinois Juvenile Court Act may have been consistent with how the law enforcement

agency was already handling station adjustments. Thus, for the law enforcement agency, the section may not have broke any new ground that would have required change.

Conclusion: *Although the law enforcement agency seems to be distinguishing between formal and informal station adjustments in a manner that is consistent with the intent underlying the distinction, they do not seem to be doing so because of the distinction.*

Limitations on the Ability to Hold Minors Accountable

Throughout the interviews with the juvenile investigator, there were several instances when he noted that he is limited in his ability to monitor station adjustment conditions. His other responsibilities as a juvenile officer leave him with little time to monitor station adjustment conditions. This precludes the possibility of imposing station adjustment conditions on minors that would take more time and effort to monitor. Time constraints also preclude the possibility of the juvenile investigator always being able to intervene in a manner that ensures that minors receive necessary services.

This is not to suggest that station adjustments issued in the law enforcement agency are ineffective. The juvenile investigator monitors restitution, makes appropriate social service referrals (although he does not follow up on them), and has several programs at his disposal that he may refer minors to (most notably, the village's peer jury program). However, it is to suggest that, if law enforcement agencies are to handle station adjustments in a manner that is consistent with the intent underlying the distinction between formal and informal station adjustments, they may need to develop new strategies, create new roles for juvenile officers (e.g., increase the time that juvenile

officers have available to monitor station adjustments), or create new collaborations (e.g., with the county probation department).

Conclusion: *Some planning and effort may be necessary to ensure that law enforcement agencies are handling station adjustments in a manner that maximizes their ability to effectively hold minors accountable for their actions or to ensure that minors receive necessary services.*

Overall Conclusions

Overall, the law enforcement agency seems to be handling formal and informal station adjustments in a manner that is consistent with the intent underlying the distinction. However, the law enforcement agency is doing so without having implemented any systematic changes. If the purpose of the distinction is to make legislation consistent with current law enforcement practice (i.e. pass into law what law enforcement agencies are already doing), then it seems acceptable that the law enforcement agency made no systematic changes in response to the distinction. On the other hand, if the purpose of the distinction is to change how station adjustments are handled in Illinois, then the overall conclusion from this report is that policy makers may need to revisit the distinction between formal and informal station adjustments and, perhaps, take lengths to ensure that law enforcement agencies fully understand the intent underlying the distinction and that law enforcement agencies receive the support necessary to enact change consistent with that intent.

VI. Final Conclusions

This document, the third component of an implementation evaluation of the Juvenile Justice Reform Provisions, included a series of three detailed case study reports

describing juvenile justice processes that were changed or created by the Reform Provisions. By providing detailed descriptions of how the processes work as well as the thoughts and opinions of those involved in the processes, the case study reports provided some insights into potential advantages and disadvantages of the new or changed processes.

The case study report describing a family group conference program indicated that program participants (perhaps most importantly, victims) support the program and believe that the conferences are beneficial, but that jurisdictions interested in developing a family group conference program may need to be cautious in order to ensure that the program does not result in "net widening" and that conferences serve to integrate young offenders into the community (as opposed to stigmatizing them). Moreover, jurisdictions may need to think of creative ways that conferences can be used to develop competencies in minors, while still achieving the other goals of conferences (e.g., allowing victims determine sanctions).

The case study report describing a juvenile case that involved an Extended Jurisdiction Juvenile (EJJ) prosecution indicated that EJJ was effective in allowing a minor who had committed a serious offense with a second chance, while still holding the minor fully accountable for a new offense. However, most interview respondents were skeptical that the potential adult sentence would serve as a deterrent for minors who are sentenced under EJJ. In addition, the minor's public defender argued that the EJJ section would be more fair to minors if judges had discretion to determine how to respond to new offenses that minors commit after the EJJ sentence is imposed. Under the current section, every new offense results in the imposition of the adult portion of the EJJ sentence, which

may result in certain minors (including the case study minor) being forced to serve a lengthy adult sentence for a less serious crime. Moreover, despite the potentially severe consequences to minors for committing a new offense, the standard of evidence at hearings to revoke the stay on the adult portion of the EJJ sentence is less rigorous (by a preponderance of the evidence) than the standard at most criminal trials (beyond a reasonable doubt).

The case study report describing the distinction between formal and informal station adjustments indicated that the distinction has not brought about tangible change in how one Illinois law enforcement agency handles station adjustments. Instead, the distinction has simply brought about change in the terminology that the law enforcement agency uses to describe station adjustments.

Most legislative acts, particularly ones with the scope and magnitude of the Juvenile Justice Reform Provisions, have positive effects, negative effects, and unintended consequences. It is our hope that the insights provided in the case study reports provide policy makers with potential topics for discussion as the Juvenile Justice Reform Provisions are considered in the years to come.

Appendix A: Interview Question Topics and Example Questions for the Case Study Reports

Family Group Conference Case Study Report

Program Description

Question Topics and Example Questions – Chief Probation Officer

1) Program origination.
   Where did the idea to conduct family group conferences originate from?

2) Program development.
   How did you proceed once it was determined that you were going to develop a family group conference program in your county?
   Describe how guidelines for case selection were developed.
   Describe how guidelines for conferences were developed.
   How long did it take to develop the program?

3) Program support.
   Do the juvenile judge, state's attorney, local law enforcement, and the community support the program?
   Were there issues that needed to be resolved or compromises that needed to be made prior to receiving their support?

4) Collaboration with the state's attorney's office.
   Were there any difficulties collaborating with the state's attorney's office on case selection, how to handle minors who do not abide by plan conditions, etc?

5) Difficulties.
   What were the most difficult factors associated with developing the family group conference program?

Question Topics and Example Questions – BARJ Probation Officer

1) Case selection.
   What criteria do the probation department use to decide whether a case is appropriate for a family group conference?
   How formal is the decision-making process (do you hold meetings, complete a criteria checklist, etc)?
   How many individuals in the probation department must agree on each decision?
   After the probation department has decided to pursue a conference, is it necessary to obtain the permission of the state's attorney? The judge?
   Has the probation department had any difficulties obtaining necessary permission?

2) Conference organization.
   What steps need to be taken to organize a conference?
   Who do you contact to participate in a conference?
   How do you describe the conferences to potential participants?
   How do potential participants respond when they are asked to participate in a conference?
   How do you decide who to contact to represent the community at the conferences?

3) Conference facilitation.
   Describe the role of the conference facilitator.
   Describe how conferences proceed.
   What does the facilitator do to ensure that the conference proceeds in the manner described?
   Have participants been satisfied with the conference process?
   Have participants been satisfied with the conference outcome?

4) Conference plan monitoring.
   Does the probation department monitor most conference plan conditions?
   How successful have minors been in abiding by conference plan conditions?
   What are the consequences for failing to abide by conference plan conditions?
   Do the consequences vary for different types of violations?

5) General thoughts regarding family group conferences.
   Are conferences a good way to make young offenders accountable for their actions?
   Are conferences a good way to provide reparations to the victim and community?
   Do young offenders who participate in conferences realize the impact that their behavior has had on the victim and the community?
   Are conferences preferable to having minors go to court?

Question Topics and Example Questions – State's Attorney

1) Program development.
   What role did the state's attorney's office play in the development of the program?
   What was your reaction when the chief probation officer approached you to state that the probation department was interested in developing the program?
   When you were first approached about the program, did you have concerns?
   When you were first approached about the program, did you support the program?
   Were there issues regarding program development that the state's attorney's office needed to resolve with the probation department?

2) Case selection.
   What role does the state's attorney's office play in selecting cases for conferences?
   How formal is the decision-making process (do you hold meetings, complete a criteria checklist, etc)?
   What criteria do the state's attorney's office consider when determining whether a conference would be appropriate for a particular case?

How many individuals in the state's attorney's office must agree on each decision?
How often does the state's attorney's office disagree with the probation department regarding whether a conference should be held for a particular case?
What factors would lead the state's attorney's office to disagree with the probation department regarding whether a conference should be held for a particular case?

3) General thoughts regarding family group conferences.
Are conferences a good way to make young offenders accountable for their actions?
Are conferences a good way to provide reparations to the victim and community?
Is it a good idea to actively involve the victim and the community in the juvenile justice system?
Do young offenders who participate in conferences realize the impact that their behavior has had on the victim and the community?
Are conferences preferable to having minors go to court?

Family Group Conference Case Description

Question Topics and Example Questions – BARJ Probation Officer

1) Case selection.
What criteria did the probation department use to decide that the minor's case was appropriate for a family group conference?
Did the state's attorney's office agree with the probation department's decision?
Was the case selection process in the minor's case unique in any way?

2) Conference organization.
Who did you contact to participate in the minor's conference?
What was each participant's reaction when you contacted them to participate in the minor's conference?
How did you describe the minor's conference to each participant?
How did you decide which community member(s) to invite to the minor's conference?

3) Conference facilitation.
Did the minor's conference proceed like a typical conference?
Was the outcome of the minor's conference typical?

4) Conference plan monitoring.
Has the minor abided by the conference plan conditions?

Question Topics and Example Questions – Minor's Mother

1) Decision to participate in a conference.
How long was it after the minor's offense was it before the probation department contacted you about the possibility of you and the minor participating in a conference?

How was the conference explained to you?
What was your reaction to the offer?
What was the minor's reaction to the offer?
What did the probation department tell you your role in the conference would be?
Did the probation department tell you why they believed the minor's case would be appropriate for a conference?
Will the minor be bringing a support group?

2) The conference.
Did the conference proceed as you expected?
Did you have the opportunity to say everything you wanted to say during the conference?
Were you satisfied with your role in the conference?
Was the minor treated fairly during the conference?
Was the conference well organized and well structured?
Did the conference facilitators do a good job?
Do you believe that, as a result of having participated in the conference, the minor now has a better understanding of the impact that his behavior had on the victim and the community?
Was the conference plan fair to the minor?
Does the conference plan make the minor accountable for his actions?

3) Conference plan completion.
Has the minor been completing the conference plan?
What have you been told about the consequences to the minor should he fail to abide by the conference plan?

4) General thoughts regarding family group conferences.
Are conferences a good way to make young offenders accountable for their actions?
Are conferences fair to young offenders?
Do young offenders who participate in conferences realize the impact that their behavior has had on the victim and the community?
Are conferences preferable to having minors go to court?

<u>Question Topics and Example Questions – Convenience Store Night Manager (Victim)</u>

1) The offense.
Did you catch the minor stealing?
Did you contact the police?

2) Decision to participate in a conference.
How long was it after the minor's offense was it before the probation department contacted you about the possibility of you and the minor participating in a conference?
How was the conference explained to you?
What was your reaction to the offer?

What did the probation department tell you your role in the conference would be?
Did the probation department tell you why they believed the minor's case would be appropriate for a conference?
Will you be bringing a support group?

3) The conference.
Did the conference proceed as you expected?
Did you have the opportunity to say everything you wanted to say during the conference?
Were you satisfied with your role in the conference?
Was the minor treated fairly during the conference?
Were you treated fairly during the conference?
Was the conference well organized and well structured?
Did the conference facilitators do a good job?
Do you believe that, as a result of having participated in the conference, the minor now has a better understanding of the impact that his behavior had on you, the convenience store, and the community?
Was the conference plan fair to the minor?
Was the conference plan fair to you?
Does the conference plan make the minor accountable for his actions?
Do you feel vindicated or better about the offense now that you have had the opportunity to face the minor?

4) General thoughts regarding family group conferences.
Are conferences a good way to make young offenders accountable for their actions?
Are conferences fair to young offenders?
Do young offenders who participate in conferences realize the impact that their behavior has had on the victim and the community?
Is it a good idea to have young offenders face their victims?
Is having the opportunity to face the offender beneficial to victims?
Are conferences preferable to having minors go to court?

<u>Question Topics and Example Questions – Juvenile Police Officer</u>

1) Decision to participate in a conference.
How long was it after the minor's offense was it before the probation department contacted you about the possibility of you and the minor participating in a conference?
How many times have you been contacted to participate in a conference?
How was the conference explained to you?
What was your reaction to the offer?
What did the probation department tell you your role in the conference would be?
Did the probation department tell you why they believed the minor's case would be appropriate for a conference?

2) The conference.
   Did the conference proceed as you expected?
   Did you have the opportunity to say everything you wanted to say during the conference?
   Were you satisfied with your role in the conference?
   Was the minor treated fairly during the conference?
   Was the victim treated fairly during the conference?
   Were you treated fairly during the conference?
   Was the conference well organized and well structured?
   Did the conference facilitators do a good job?
   Do you believe that, as a result of having participated in the conference, the minor now has a better understanding of the impact that his behavior had on the victim and the community?
   Was the conference plan fair to the minor?
   Was the conference plan fair to the victim?
   Does the conference plan make the minor accountable for his actions?
   Would you be willing to participate in another conference if you are contacted by the probation department?

3) General thoughts regarding family group conferences.
   Are conferences a good way to make young offenders accountable for their actions?
   Are conferences fair to young offenders?
   Are conferences fair to victims?
   Do young offenders who participate in conferences realize the impact that their behavior has had on the victim and the community?
   Is it a good idea to have young offenders face their victims?
   Is having the opportunity to face the offender beneficial to victims?
   Are conferences preferable to having minors go to court?

<u>Question Topics and Example Questions – High School Student (Community Member)</u>

1) Background.
   Do you live in the county?
   Have you lived in the county your whole life?

2) Involvement in the program.
   How did you get involved in the family group conference program?
   How many conferences have you attended?
   How long have you been involved in the program?
   How was the program described to you when you first expressed interest in potentially participating as a community member?
   How was your role in the conferences described to you?
   Were you provided with training after becoming involved in the program?
   Were you introduced to the BARJ philosophy after becoming involved in the program?

3) Decision to participate in a conference.
   How long was it after the minor's offense was it before the probation department contacted you about the possibility of you and the minor participating in a conference?
   How many times have you been contacted to participate in a conference?
   What was your reaction to the offer?
   Did the probation department tell you why they believed the minor's case would be appropriate for a conference?

4) The conference.
   Did the conference proceed as you expected?
   Did you have the opportunity to say everything you wanted to say during the conference?
   Were you satisfied with your role in the conference?
   Was the minor treated fairly during the conference?
   Was the victim treated fairly during the conference?
   Were you treated fairly during the conference?
   Was the conference well organized and well structured?
   Did the conference facilitators do a good job?
   Do you believe that, as a result of having participated in the conference, the minor now has a better understanding of the impact that his behavior had on the victim and the community?
   Was the conference plan fair to the minor?
   Was the conference plan fair to the victim?
   Does the conference plan make the minor accountable for his actions?
   Would you be willing to participate in another conference if you are contacted by the probation department?

5) General thoughts regarding family group conferences.
   Are conferences a good way to make young offenders accountable for their actions?
   Are conferences fair to young offenders?
   Are conferences fair to victims?
   Do young offenders who participate in conferences realize the impact that their behavior has had on the victim and the community?
   Is it a good idea to have young offenders face their victims?
   Is it a good idea to have young offenders face the community?
   Is having the opportunity to face the offender beneficial to victims?
   Are conferences preferable to having minors go to court?

Extended Jurisdiction Juvenile (EJJ) Case Study Report

Question Topics and Example Questions – Assistant State's Attorney

1) Pre-adjudicatory detention.
   Was the minor detained until he was convicted and given an EJJ sentence?

2) Decision to pursue/agree to an EJJ sentence.
   Why did you decide to pursue a plea involving an EJJ sentence?
   How did the EJJ petition process work?
   Did you consider petitioning the court the have the case transferred to adult court?

3) The plea bargaining process.
   Was the EJJ plea agreement acceptable to you?
   Was it difficult to reach a plea agreement?
   Did you discuss plea agreements that did not involve EJJ?
   What are your thoughts on the EJJ sentence?

5) Juvenile probation revocation.
   Who testified at the revocation hearing?
   Did you treat the revocation hearing as you typically treat criminal trials involving juveniles?
   Was the revocation hearing (process, outcome, etc.) acceptable to you?

6) The motion to declare EJJ unconstitutional.
   How did you respond to each of the constitutionality issues raised by the public defender?

7) Satisfaction with the EJJ process.
   Overall, were you satisfied with the way the case proceeded?

8) Unique aspects of EJJ.
   How did you respond differently to the case because it involved EJJ?

9) Prior EJJ involvement.
   Have you been involved in other cases involving EJJ?

10) General thoughts regarding EJJ.
    What are your thoughts on the utility and purpose of EJJ?

<u>Question Topics and Example Questions – Public Defender</u>

1) Case Assignment.
   How did you get assigned to the case?

2) Pre-adjudicatory detention.
   Was the minor detained until he was convicted and given an EJJ sentence?

3) Decision to pursue/agree to an EJJ sentence.
   Why did you decide to pursue a plea involving an EJJ sentence?
   How did the EJJ petition process work?
   Did you consider petitioning the court the have the case transferred to adult court?

4) The plea bargaining process.
   Was the EJJ plea agreement acceptable to you?
   Was it difficult to reach a plea agreement?
   Did you discuss plea agreements that did not involve EJJ?
   What are your thoughts on the EJJ sentence?

5) Juvenile probation revocation.
   Who testified at the revocation hearing?
   Did you treat the revocation hearing as you typically treat criminal trials involving juveniles?
   Was the revocation hearing (process, outcome, etc.) acceptable to you?

6) The motion to declare EJJ unconstitutional.
   Please elaborate on the issues you raised in your motion to declare EJJ unconstitutional.

7) Satisfaction with the EJJ process.
   Overall, were you satisfied with the way the case proceeded?

8) Unique aspects of EJJ.
   How did you respond differently to the case because it involved EJJ?

9) Prior EJJ involvement.
   Have you been involved in other cases involving EJJ?

10) General thoughts regarding EJJ.
    What are your thoughts on the utility and purpose of EJJ?

<u>Question Topics and Example Questions – Juvenile Court Judge</u>

1) Pre-adjudicatory detention.
   Was the minor detained until he was convicted and given an EJJ sentence?

2) The plea bargaining process.
   Was the plea agreement acceptable to you?
   What aggravating and mitigating factors were considered prior to accepting the plea agreement?
   What are your thoughts on the EJJ sentence?

3) Juvenile probation revocation.
   How did the revocation hearing proceed?
   Did you treat the revocation hearing as you typically treat criminal trials involving juveniles?
   Was the revocation hearing (process, outcome, etc.) acceptable to you?

4) The motion to declare EJJ unconstitutional.
   What are your thoughts on each of the issues raised by the public defender in his motion to declare EJJ unconstitutional?

5) Satisfaction with the EJJ process.
   Overall, were you satisfied with the way the case proceeded?

6) Unique aspects of EJJ.
   How did you respond differently to the case because it involved EJJ?

7) Prior EJJ involvement.
   Have you been involved in other cases involving EJJ?

8) General thoughts regarding EJJ.
   What are your thoughts on the utility and purpose of EJJ?

Question Topics and Example Questions – Probation Officer

1) Case assignment.
   How did you get assigned to the case?

2) Probation conditions.
   Please clarify the nature of several probation conditions.
   Were the probation conditions fair to the minor?

3) Unique aspects of EJJ.
   Did you respond differently to the case because it involved EJJ?

4) Probation performance.
   Was the minor abiding by his probation conditions prior to the new arrest?

5) Juvenile probation revocation.
   How did the revocation hearing proceed?

   Was the revocation hearing (process, outcome, etc.) acceptable to you?

6) Prior EJJ involvement
   Have you been involved in other cases involving EJJ?

7) General thoughts regarding EJJ
   What are your thoughts on the utility and purpose of EJJ?

Question Topics and Example Questions - Minor

1) Pre-adjudicatory detention.
   Were you detained until you were convicted and given an EJJ sentence?

2) Decision to agree to an EJJ sentence.
   How was EJJ explained to you by the public defender?
   Did you understand EJJ when it was explained to you?
   What did you think about EJJ when it was explained that you had the option of receiving an EJJ sentence?

3) The plea bargaining process.
   How did the public defender explain the plea bargain involving EJJ to you (e.g., did he state the advantages and disadvantages of the plea bargain)?
   Were you in favor of pleading guilty and accepting the plea agreement?
   Was the EJJ sentence fair to you?

4) Probation conditions.
   Were your juvenile probation conditions fair?

5) Probation performance.
   How far had you gotten on completing your probation conditions prior to getting arrested for retail theft?
   Did your probation officer make it clear that you could really get in trouble if you did not do well on probation?

6) Juvenile probation revocation.
   Who testified at the revocation hearing?
   Was the revocation hearing (process, outcome, etc.) acceptable to you?
   What did the judge say at the hearing?

7) Prison services.
   Have been working towards your GED while in prison?
   Have you been receiving counseling while in prison?

8) Satisfaction with the EJJ process.
   Overall, were you satisfied with the way your case proceeded?

9) General thoughts regarding EJJ.
   Is EJJ fair to minors who commit crimes?
   Will EJJ prevent minors who commit crimes from committing another crime?

<u>Question Topics and Example Questions – Minor's Mother</u>

1) Decision to agree to an EJJ sentence.
   How was EJJ explained to you by the public defender?
   Did you understand EJJ when it was explained to you?
   Did the minor understand EJJ when it was explained to him?
   Why did the prosecuting attorney believe that the minor's case was appropriate for EJJ?

What did you think about EJJ when it was explained that the minor had the option of receiving an EJJ sentence?

2) The plea bargaining process.
How did the public defender explain the plea bargain involving EJJ to you (e.g., did he state the advantages and disadvantages of the plea bargain)?
Were you in favor of the minor pleading guilty and accepting the plea agreement?
Was the EJJ sentence fair to the minor?

3) Juvenile probation.
Did you fully understand the consequences to the minor if he did not do well on probation?
Did the minor fully understand the consequences of not doing well on probation?
Why do you think the minor took such a risk on the day he was arrested?

4) Juvenile probation revocation.
Was the revocation hearing (process, outcome, etc.) acceptable to you?
What did the judge say at the hearing?

5) Satisfaction with the EJJ process.
Overall, were you satisfied with the way the minor's case proceeded?

6) General thoughts regarding EJJ.
Is EJJ fair to minors who commit crimes?
Will EJJ prevent minors who commit crimes from committing another crime?

<u>Question Topics and Example Questions – Convenience Store Clerk (Victim)</u>

1) Victim impact.
Are you still working at the convenience store?
Did the offense impact any aspect of your job?

2) Learning about the EJJ prosecution.
How did you first find out that the minor's case was going to be tried under EJJ?

3) Reparation.
Did the minor write you a letter of apology?
Did the letter of apology help to repair the harm the minor had done to you?

4) EJJ sentence.
Was the EJJ sentence that the minor received fair, given the nature of the offense?
Was it appropriate to give the minor a second chance to avoid detention or prison?

5) General thoughts regarding EJJ.
Is EJJ fair to victims of minors who commit crimes?
Will EJJ prevent minors who commit crimes from committing another crime?

Question Topics and Example Questions – Electronic Appliance Store Manager (Victim)

1) The minor's arrest.
   Did you contact the police about the offense?
   Did the police mention anything about the potential consequences to the minor as a result of the arrest?
   Would you have contacted the police, had you known the potential consequences to the minor?

2) Learning about the EJJ sentence.
   How did you first find out that the minor was serving an EJJ sentence?

3) Juvenile probation revocation.
   What did the Assistant State's Attorney ask you at the revocation hearing?
   What did the public defender ask you at the revocation hearing?

4) General thoughts regarding EJJ.
   Is EJJ fair to victims of minors who commit crimes?
   Will EJJ prevent minors who commit crimes from committing another crime?

Formal and Informal Station Adjustment Case Study Report

Question Topics and Example Questions – Juvenile Investigator

1) Background and experience.
   How long have you worked for the village's police department?
   How long have you been a juvenile police officer?
   Do you exclusively handle juvenile cases or do you handle adult cases as well?
   What percentage of your agency's juvenile cases do you handle?

2) Organization of the law enforcement agency.
   How many juvenile officers work in the village law enforcement agency?
   Do juvenile officers handle all aspects of cases from arrest to disposition?

3) Juvenile arrests.
   Are juvenile arrests for cases involving station adjustments handled in the same manner as other juvenile arrests? As adult arrests?
   Are juvenile arrests for cases involving formal station adjustments handled in the same manner as juvenile arrests for cases involving informal station adjustments?
   Are minors who are issued formal station adjustments handcuffed when they are arrested?
   Are minors who are issued informal station adjustments handcuffed when they are arrested?
   Are minors who are issued formal station adjustments read their Miranda rights when they are arrested?

Are minors who are issued informal station adjustments read their Miranda rights when they are arrested?
How was the case study minor's arrest handled?

4) Case decision making.
What factors do you consider when determining whether to issue a minor a station adjustment (formal or informal)?
Do you consider the factors that are listed in the Illinois Juvenile Court Act when determining whether to issue a minor a station adjustment (formal or informal)?
What factors did you consider when determining whether to issue the case study minor a station adjustment (formal or informal)?
What factors do you consider when determining whether to issue a minor a formal station adjustment?
What factors do you consider when determining whether to issue a minor an informal station adjustment?
What factors did you consider when determining that the case study minor should receive a formal station adjustment?
Are you given free reign to decide whether to issue a station adjustment?
How often do you issue formal station adjustments relative to informal station adjustments?

5) Handling the case at the station.
Where do you take minors to talk to them once they are at the station? Are all minor taken there (i.e., both minors who are issued station adjustments and minors who are not issued station adjustments)?
What do you talk to minors about once they are at the station? Does this differ based on whether or not the minor receives a station adjustment or does not receive a station adjustment? Does this differ based on whether the minor receives a formal station adjustment or an informal station adjustment?
What did you talk to the case study minor about? Did it differ from what you generally talk to minors about?
Do you contact parents to pick up minors at the station when they are issued a station adjustment? When they are issued a formal station adjustment? When they are issued an informal station adjustment?
Did the case study minor's parents pick him up at the police station?
How do you describe formal station adjustments to minors and their parents? How do you describe informal station adjustments to minors and their parents?
How did you describe the formal station adjustment to the case study minor and his mother? Did your description differ from how you typically describe formal station adjustments?
When you decide to issue a formal station adjustment, how do minors and their parents generally react?
When you decide to issue an informal station adjustment, how do minors and their parents generally react?
How did the case study minor and his mother react when you told him that you had decided to issue the minor a formal station adjustment?

Do you require minors who are issued formal station adjustments and their parents to sign a form upon agreed to the station adjustment? If so, then what is included in the form?
Do you require minors who are issued informal station adjustments and their parents to sign a form upon agreed to the station adjustment? If so, then what is included in the form?

6) Station adjustment conditions.
What conditions do you generally impose upon minors who are issued formal station adjustments? Do you impose each of the conditions listed in the Illinois Juvenile Court Act?
What conditions do you generally impose upon minors who are issued informal station adjustments? Do you impose each of the conditions listed in the Illinois Juvenile Court Act?
What conditions did you impose upon the case study minor?
Describe the village's teen court program.

7) Monitoring station adjustments.
Who generally monitors formal station adjustment conditions?
Who generally monitors informal station adjustment conditions?
Who will be monitoring the minor's station adjustment conditions?

8) Consequences for failing to abide by station adjustment conditions.
How do you respond when minors fail to abide by formal station adjustment conditions? Do you use each of the potential responses listed in the Illinois Juvenile Court Act?
How do you respond when minors fail to abide by informal station adjustment conditions? Do you use each of the potential responses listed in the Illinois Juvenile Court Act?
Did the case study minor abide by his station adjustment conditions? How would you respond if the minor failed to abide by his station adjustment conditions?

9) General thoughts regarding the distinction between formal and informal station adjustments.
Do you think that the distinction between formal and informal station adjustments is useful?
Why do you think there is now a distinction between formal and informal station adjustments?
Have you or other juvenile officers in your agency changed how you handle station adjustments since the distinction between formal and informal station adjustments took effect?

<u>Question Topics and Example Questions – Minor's Mother</u>

1) Handling the case at the station.

Were you contacted by the juvenile investigator and asked to pick up the case study minor at the police station?
Did the juvenile investigator handle the entire case?
How did the juvenile investigator explain the formal station adjustment to you and the case study minor?
Did you understand the station adjustment?
Do you think the case study minor understood the station adjustment?
What did you think about the station adjustment when it was offered to the case study minor?
What did the case study minor think about the station adjustment?
Do you think the case study minor was treated fairly by the juvenile investigator?
Were you and/or the case study minor required to sign a form stating that you agreed to the station adjustment?

2) Station adjustment conditions.
Did the juvenile investigator involve you and/or the case study minor in the process of determining the case study minor's station adjustment conditions?
Do you think the conditions were fair to the case study minor?
Did the case study minor think that the conditions were fair?
How did the case study minor's teen court session proceed?
What sentence did the teen court impose upon the case study minor?

3) Monitoring station adjustments.
Who is responsible for making sure that the case study minor follows through and completes his station adjustment conditions?

4) Consequences for failing to abide by station adjustment conditions.
Did the juvenile investigator tell you and the case study minor what the consequences would be should the case study minor fail to abide by the conditions of his station adjustment?

5) Overall impressions.
Overall, do you think that it was fair for the case study minor to have received a formal station adjustment?

Question Topics and Example Questions – Hardware Store Manager (Victim)

1) The incident.
Were you the individual who determined that the case study minor had committed the offense?
Describe the case study minor's offense.
Were you the individual who contacted the police?

2) The case study minor's arrest.
Describe how the police officer handled the arrest.

What did the police officer talk to you about upon coming to the hardware store to make the arrest?
Did the police officer tell you what might happen to the case study minor?
Was the case study minor handcuffed?
Was the case study minor read his Miranda rights?
Overall, did the arresting police officer treat the case study minor like a "kid" or like a "criminal"?

3) Involvement in the case study minor's disposition.
Were you contacted after the case study minor was arrested and told how the case was resolved?
How involved were you in the process of determining how the case study minor's case would be resolved?
How did the juvenile investigator describe the formal station adjustment to you?
Did you understand the formal station adjustment when it was explained to you?
Do you think that the formal station adjustment was a fair response, given the nature of the case study minor's offense?

4) Station adjustment conditions.
Do you think that the case study minor's station adjustment conditions provided a fair response to the case study minor's offense?

Appendix B – Glossary of Legal Terminology Used in the EJJ Case Study Report

For the most part, definitions were taken from the Merriam-Webster Dictionary of Law (1996). Exceptions (terminology that does not appear in the Merriam-Webster Dictionary) are marked with an *. After each definition, the terminology is placed in the context of the minor's case. The page on which the terminology first appears is listed in parentheses.

1. **Aggravate (page 90):** To make more serious, more severe, or worse. Prior to accepting the minor's plea agreement, the judge examined aggravating factors, or factors specifically related to the minor which would lead one to indicate that the sentence should be more severe than the sentence presented in the plea agreement.

2. **Chill (page 104):** To discourage, especially through fear of penalty: have a chilling effect on. Example, statutory sections which may *chill* the exercise of free expression. The public defender argued that the EJJ section does not grant minors who are sentenced under EJJ, then arrested for a new offense, with the opportunity to fully express themselves in court. This chills their exercise of free expression.

3. **Clear and Convincing Evidence (page 71):** Evidence showing a high probability of truth of the factual matter at issue. This is a standard of proof with a level of stringency in between "beyond a reasonable doubt" (most stringent) and "by a preponderance of the evidence" (least stringent). Judges may deny a petition to designate a case as an EJJ prosecution if there is clear and convincing evidence, based on several factors, that EJJ would be inappropriate.

4. **Concurrent Sentence (page 89):** A sentence that runs at the same time as another. For example, the minor's EJJ adult sentence was for two concurrent adult prison sentences: a five year sentence (for Aggravated Robbery) and a two year sentence (for Conspiracy to Commit Aggravated Robbery). Because the two sentences were to run at the same time, this meant that the minor would only have to serve a five year sentence.

5. **Due Process (page 107):** A requirement that laws and regulations must be related to a legitimate government interest (as crime prevention) and may not contain provisions that result in the unfair or arbitrary treatment of an individual. The public defender argued that, because the EJJ section is unclear on court procedures after minors who are serving an EJJ sentence are arrested for a new offense, the EJJ section violates due process guarantees.

6. **Equal Protection (page 111):** A guarantee under the Fourteenth Amendment to the U.S. Constitution that a state must treat an individual or class of individuals the same as it treats other individuals or classes in like circumstances. The public defender argued that minors sentenced under EJJ are treated like neither minors or like adults. Therefore, the EJJ section violates equal protection guarantees.

7. **First Amendment (page 103)[*]:** The free speech Amendment to the U.S. Constitution, which reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The public defender argued that EJJ violates First Amendment rights, because minors who are serving EJJ sentences are not granted the right to a full trial with a standard of proof of beyond a reasonable doubt. This hinders minor's ability to freely express themselves in court.

8. **Mitigate (page 90):** To lessen or minimize the severity of. Prior to accepting the minor's plea agreement, the judge examined mitigating factors, or factors specifically related to the minor which would lead one to indicate that the sentence should be less severe than the sentence presented in the plea agreement.

9. **Mittimus (page 118):** Latin for "we send". A warrant issued to a sheriff commanding the delivery to prison of a person named in the warrant. After the stay on the minor's adult sentence was revoked, the public defender filed a motion requesting that the mittimus not be sent until the minor receives a trial in which the standard of proof is beyond a reasonable doubt.

10. **Preponderance of the Evidence (page 75):** The standard of proof in most civil cases in which the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not. The standard of proof at the minor's probation revocation hearing was by a preponderance of the evidence.

11. **Probable Cause (page 84):** A reasonable ground in fact and circumstance for a belief in the existence of certain circumstances (as that an offense has been or is being committed, that a person is guilty of an offense, that a particular search will uncover contraband, that an item to be seized is in a particular place, or that a specific fact or cause of action exists). One of the factors determining whether a prosecutor may file a petition requesting that a case be designated as an EJJ prosecution is whether probable cause exists to believe that the minor committed the offense.

12. **Reasonable Doubt (page 108):** A doubt especially about the guilt of a criminal defendant that arises or remains upon fair and thorough consideration of the evidence or lack thereof. For example, a penal code may state that all persons are presumed to be innocent and no person may convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The public defender argued that the standard of proof at the minor's probation revocation hearing should have been beyond a reasonable doubt.

13. **Separation of Powers (page 113):** The doctrine under which the legislative, executive, and judicial branches of government are not to infringe upon each other's constitutionally vested powers. The public defender argued that, because the EJJ section (which was created by the legislative branch) mandates that judges impose the EJJ adult sentence after minors who are sentenced under EJJ commit a new offense, the legislative branch is infringing on judicial power.

14. **Single Subject Rule (page 112)[*]:** The Illinois Constitution (Article 4, Section 8(d)) states that legislation should only encompass one subject. The public defender argued that the EJJ section encompasses more than one subject.

15. **Standard of Proof (page 108):** The level of certainty and the degree of evidence necessary to establish proof in a criminal or civil proceeding. By a preponderance of the evidence, clear and convincing evidence, and beyond a reasonable doubt are all standards of proof that are mentioned in the report.

16. **Vacate (page 92):** To make void: "annul" "set aside". This term is used in two contexts in the report. Had the judge requested modifications to the plea agreement involving an EJJ sentence, then the ASA or the public defender could have vacated the plea agreement. After the stay on the minor's adult sentence was revoked, the public defender files a motion to vacate the plea agreement whereby the minor received an EJJ sentence.

17. **Void-For-Vagueness Doctrine (page 104):** A doctrine requiring that a penal statute section define a criminal statute with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. The public defender argued that the EJJ section does not meet the vagueness standards established by the Illinois Supreme Court.