



Pennsylvania Juvenile Probation Departments in the Wake of the Luzerne County Scandal: What Has Changed?

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ABSTRACT

In 2008, Luzerne County, Pennsylvania made national headlines when the “Kids for Cash Scandal” broke. As a result of the actions of the Juvenile Court Judge and other juvenile system personnel, the Interbranch Commission on Juvenile Justice was created to develop rules to prevent the juvenile justice system in Pennsylvania from failing again. The purpose of this study was to determine how juvenile probation practices have changed since the scandal and if those departments were following through with the recommendations of the Commission. While many policies and practices have changed since the scandal, such as the policies regarding gifts and gratuities, there was a lack of consistency in the magnitude of those changes.

Keywords juvenile justice, probation, Luzerne County, Kids for Cash

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INTRODUCTION

Purpose

The juvenile justice system has changed since its inception. Although the express purpose is still rehabilitation, the juvenile justice system is beginning to mirror the criminal justice system in many aspects. For example, juveniles are granted many of the same rights as their adult counterparts (such as the right to an attorney (In re Gault, 1967)) and juvenile records are, in many situations, not sealed. In Pennsylvania, juvenile case information is available

to the public if the juvenile is over the age of fourteen and accused of one of several enumerated offenses (such as kidnapping, rape, or arson) (42 Pa. C. S. A. § 6307(b)(1), 2021). A public juvenile record may affect the juvenile’s ability to secure housing, education, and employment (Pennsylvania Juvenile Indigent Defense Action Network, 2010). Due to the changing nature of the juvenile justice system and the serious implications related to an adjudication of delinquency, it is now more important than ever to ensure that the rights of juve-

niles are protected, and that the juvenile justice system is operating in accordance with the law.

Given the “Kids for Cash” scandal and the gross abuses in the Luzerne County Juvenile Court, it is necessary to determine if the Interbranch Commission recommendations have been followed to prevent another failure of the system. The purpose of this study is to determine if the recommendations of the Interbranch Commission on Juvenile Justice have been followed by county juvenile probation offices and to determine if the juveniles in Pennsylvania who are being processed through Juvenile Court are being protected.

“Kids for Cash” Scandal

In 2008, the Juvenile Law Center of Philadelphia filed a petition with the Supreme Court of Pennsylvania in which it asked the Court to intercede on behalf of the many juveniles who were adjudicated in the Juvenile Court of Luzerne County, Pennsylvania (Interbranch Commission on Juvenile Justice, 2010). Though it denied the original petition, the Supreme Court of Pennsylvania eventually intervened and what followed made national headlines and left the juvenile justice system reeling. The “Kids for Cash” scandal, as it became known, ended with prison sentences for some of the key players, the expungement of hundreds of juvenile records, and the formation of the Interbranch Commission to determine how and why the system failed.

Just days after the Supreme Court of Pennsylvania issued its initial ruling on the Juvenile Law Center petition, criminal charges were filed against two Luzerne County Common Pleas Court judges: Michael T. Conahan and Mark A. Ciavarella, Jr. It was alleged that the two judges received over two million dollars in payoffs from the owner of two juvenile detention facilities in Luzerne County and Butler County. It also was alleged that Judge Ciavarella had placed many juveniles in the detention facilities. Though these allegations provided the headline in the “Kids for Cash” scandal, a special master lat-

er appointed by the Supreme Court of Pennsylvania uncovered gross injustices related to juvenile rights. For example, the special master found that many juveniles had not knowingly and intelligently waived their right to counsel, and many had not appeared before an impartial tribunal. “In 54 percent of juvenile cases Ciavarella adjudicated between 2003 and 2008, youths were unrepresented” (Interbranch Commission on Juvenile Justice, 2010, p. 11). In many cases, there was no discussion with the juveniles on-the-record to determine if they understood the waiver of counsel. In addition, many juveniles were not advised of the elements of the delinquent acts of which they were accused and were not advised of the consequences of admitting to those acts. The Supreme Court of Pennsylvania issued an order adopting the recommendations of the special master and all adjudications and consent decrees for juveniles who had appeared before Ciavarella between January 1, 2003 and May 31, 2008 were vacated. The records also were expunged. Additionally, the Supreme Court of Pennsylvania tasked the Interbranch Commission on Juvenile Justice to uncover how and why the juvenile justice system in Luzerne County had failed and to prevent the system from failing again (Interbranch Commission on Juvenile Justice, 2010).

In a sixty-six-page report, the Interbranch Commission on Juvenile Justice outlined the issues in Luzerne County and explained the shortcomings of the judiciary, the office of the district Attorney, the office of the public defender, the juvenile probation department, and others. In particular, the Interbranch Commission found that the juvenile probation department in Luzerne County played “an unusually dominant role in the adjudicatory process” (Interbranch Commission on Juvenile Justice, 2010, p. 36). Juvenile probation intake officers obtained written waivers of counsel from juveniles, despite the Pennsylvania Supreme Court requirement that such waivers be done on-the-record during court proceedings. Social history reports and disposition

recommendations were not provided to the prosecutors and defense attorneys in advance of the disposition hearings. The juvenile probation department also arranged hearings for juveniles who owed fines and/or restitution in their cases. These hearings were known as “fine court” and juveniles who were unable to pay were sent into detention until the debts were paid. An eleven-year-old went through fine court in 2004. He owed approximately \$490 in fines. The judge ordered him handcuffed and remanded him to detention. There was no objection to this by the Chief Juvenile Probation Officer (Interbranch Commission on Juvenile Justice, 2010). Additionally, the Interbranch Commission on Juvenile Justice (2010) found

Probation officials attended parties and sometimes went on overnight outings as the guests of juvenile placement facilities and providers. There was no policy against receiving gifts. [Judge] Ciavarella and Juvenile Probation Department personnel sometimes attended graduation ceremonies at juvenile residential facilities. The accommodations on these trips, including food and drinks, were provided by the institutions (p. 37).

The Interbranch Commission on Juvenile Justice also made several recommendations regarding victims of crime, judicial ethics and discipline, ethics of juvenile probation officers, court hiring practices, continuing Supreme Court oversight, use of data and statistics, records of dispositional reasoning, shackling, juvenile placement decisions, Youth Level of Service, and appellate rights and review (Interbranch Commission on Juvenile Justice, 2010). While ethical recommendations were made regarding ethical guidelines for juvenile probation officers, it should be noted that there were some guidelines in place prior to the scandal. For example, the prohibition against partisan political activity on the part of judicial employees, such as probation officers, was reaffirmed in a 1998 Pennsylvania Su-

preme Court order (The Supreme Court of Pennsylvania, 1998). In addition, the Pennsylvania Council of Chief Juvenile Probation Officers outlined (in 2001) that members of the executive committee could only accept merchandise, meals, trips, etc. if the members paid the actual value for the items (Pennsylvania Council of Chief Juvenile Probation Officers, 2021). The Council amended its guidelines in 2009 to include all council members, not just the executive committee. Though there were some guidelines in place, the Interbranch Commission on Juvenile Justice recommended that every county juvenile probation department adopt and codify ethical standards for probation officers. These county policies are to address the rejection of gifts from private providers, the placement of juveniles based on the outcomes of private facilities (rather than enticements), the prohibition against part-time employment at private facilities without permission, the confidentiality of juvenile files, and the partisan political activities of juvenile probation officers (Interbranch Commission on Juvenile Justice, 2010).

In 2013, the Supreme Court of Pennsylvania issued its final report after evaluating the implementation of the recommendations of the Interbranch Commission on Juvenile Justice. (The Supreme Court of Pennsylvania, 2013). According to the final report, many of the Juvenile Court Rules had been changed to reflect the recommendations of the Interbranch Commission on Juvenile Justice. For example, Rule 139 prohibits using restraints on juveniles during juvenile court proceedings unless there is a safety issue and rules 151, 362, and 512 mandate the presumption that juveniles are indigent (and therefore entitled to appointed counsel). Court procedure has changed as well. Rule 407 mandates a written colloquy for a juvenile admission (The Supreme Court of Pennsylvania, 2013) and Common Pleas Judges are required to use special juvenile delinquency forms for dispositional orders, adjudication hearing orders, and consent decree orders

(The Unified Judicial System of Pennsylvania, 2020). In addition, the Supreme Court of Pennsylvania indicated that a Code of Conduct for Judicial Employees had been implemented. The Code of Conduct prevents court employees from accepting “anything of value from any person or entity doing or seeking to do business with” that person’s immediate employer (The Supreme Court of Pennsylvania, 2019, ¶ IVA). In addition, court employees are not to allow personal or business relationships to impact their conduct. They also are not to engage in partisan political activity, such as running for office, serving on a political committee, or working at a polling place in support of a candidate (though they can sign nominating petitions) (The Supreme Court of Pennsylvania, 2019).

In addition to the Code of Conduct for Judicial Employees, the Juvenile Court Judges’ Commission developed ethical rules for probation officers (Juvenile Court Judges’ Commission, 2015). While the Juvenile Court Judges’ Commission indicated that individual juvenile probation departments were to develop their own ethical codes, the Commission did outline certain expectations for juvenile probation officers. Juvenile probation officers are not to use their respective positions in their offices for personal gain or engage in partisan political activity. In addition, they are expected to avoid conflicts of interest and maintain confidentiality. On a national level, the American Probation and Parole Association (2020) recommends that interventions should be specific to the juvenile’s individual needs and that policies and practices of juvenile probation departments be based on current evidence. No research has been identified in which current probation officer practices were examined or research involving the implementation of the rules established by the Interbranch Commission.

PREVIOUS LITERATURE

Scholarship has examined highly related areas of research that have helped to inform this study. The

following literature review addresses the collateral consequences of involvement in the juvenile justice system, and work on probation officer and judicial discretion.

Consequences of Involvement in the Juvenile Justice System and Confidentiality of Records

In the aftermath of the Luzerne County scandal, the Supreme Court of Pennsylvania issued an order regarding the vacatur of consent decrees and adjudications in Luzerne County. The Court opined, “the transcripts reveal a disturbing lack of fundamental process, inimical to any system of justice, and made even more grievous since these matters involved juveniles” (The Supreme Court of Pennsylvania, 2008, p. 4). The Supreme Court of Pennsylvania recognized the importance of a fair and just process, especially for juveniles.

The consequences of involvement in the juvenile justice system can be extreme and without a fair process, juveniles may face those consequences unjustly. For example, Gowen et al. (2011) identified the denial of educational opportunities at the secondary school level, collegial level, and graduate level for juveniles who had been adjudicated of certain offenses. Some states allow for school administrators to expel students who have committed offenses, even those that occur off school property. Schools also may suspend students who have been involved in such activity. As far as the collegial and graduate levels, applications often ask about criminal/delinquent activity, and thus potential students could be excluded based on their juvenile record. Gowen et al. (2011) also indicated housing can be affected by juvenile adjudication. Juveniles in those states with juvenile sex-offender registration may find themselves (and their families) unable to apply for and/or stay in public housing based on their registration status. Employment can be affected as well. If juvenile court records are accessible to the public, they can easily be accessed by potential or current employers. In addition to consequences out-

side of the system, there are several consequences for juveniles within the system. For example, a juvenile adjudication can increase the length of sentence in a subsequent criminal proceeding (Fountain & Woolard, 2017; McConnell, 2012). This could mean the difference between a probationary sentence and jail time or jail time and prison time (see Pennsylvania Commission on Sentencing, 2019). The Pennsylvania Juvenile Indigent Defense Action Network (2010) outlined additional consequences, including the ability to enlist in the military, carry a firearm, and get a driver's license. Therefore, confidentiality of juvenile records becomes extremely important. For example, one of the core principles delineated by the Juvenile Law Center is that juvenile record access should be limited to reduce stigma (Shah, Fine, & Gullen, 2014).

The Interbranch Commission on Juvenile Justice (2010) recognized the important role of the juvenile probation officer. After all, the juvenile probation officer is responsible for making referrals to appropriate agencies (42 Pa. C. S. A. § 6304(a)(4), 2021). This means that juvenile probation officers, after reviewing the juvenile's case, make a recommendation for placement of the juvenile. Removal from the home and placement in a juvenile facility is not to be taken lightly. The Pennsylvania Juvenile Act states that "the court shall impose the minimum amount of confinement that is consistent with the protection of the public and the rehabilitation needs of the child" (42 Pa. C. S. A. § 6352(a), 2021, ¶ 8). Researchers have found unintentional consequences of juvenile detention and/or long-term placement in a juvenile facility. Barnert et al. (2017) suggested that juveniles who have been incarcerated or in detention have a greater chance of suffering from depressive symptoms and suicidal thoughts as adults. In addition, they found that these individuals have worse physical health.

Juvenile probation officers must make placement decisions without undue influence. "As officers of

the court, juvenile probation officers must conduct themselves in a manner which avoids the appearance of impropriety" (Interbranch Commission on Juvenile Justice, 2010, p. 51). Given the Luzerne County scandal, the Interbranch Commission on Juvenile Justice considered the acceptance of gifts/gratuities from service providers to be improper and unethical. Many individuals have conducted research and written on the issues of gifts/gratuities in the criminal justice system. For example, Sherman discussed gifts and gratuities in relation to police officers (Sherman, 1985). He argued that accepting small gratuities, such as a free cup of coffee, is corruption and that accepting small gratuities can lead to more serious corruption. In this regard, the acceptance of gifts/gratuities is viewed as a slippery slope toward more serious corruption such as bribes. In contrast, Feldberg (1985), argued that there may not be a slippery slope from acceptance of a small gratuity such as a discounted meal toward the acceptance of bribes, but nonetheless, there are ethical issues surrounding the acceptance of small gratuities. If police officers spend their time with individuals and at businesses that provide such gratuities, other individuals and businesses are not given equal access to the police. Regarding the public's view of the acceptance of gifts/gratuities on the part of police officers, Prenzler and Mackay (1995) surveyed 390 people in Australia. Thirty-one percent of respondents were opposed to occasional small gratuities while on duty and 76% of respondents were opposed to small gratuities provided on a regular basis while on duty. Of those who did not approve of the acceptance of regular small gratuities while on duty, 47% believed that the acceptance of regular gratuities could lead to more serious forms of corruption, 45% of respondents believed it harmed the police image, and 22% believed it distracted the police from their duties.

Juvenile Probation and Discretion

Approaches to juvenile probation sometimes vary depending on offender type. Some research has found that probation officers anticipate the cases to be difficult if the juvenile has been abused and/or is psychopathic (Vidal and Skeem, 2007). Due to the assumption that these juveniles are en route to adult criminality, probation officers are more likely to suggest secure corrections, but with juveniles that have been abused, officers tend to suggest psychological support resources, and assist them in various ways. When handling juvenile drug users, research has revealed that officers are more likely to utilize confrontational approaches (Schwalbe & Maschi, 2011). Furthermore, when examining probation cases, older individuals have a lower probability of failing, which highlights a need for younger offender intervention programs in order to increase their likelihood of success (Maxwell & Gray, 2000). Therefore, customizing treatments to the specific probationer risk level will increase the likelihood of success among probationers (Wooditch et al, 2017). But overall, there are very few statewide programs that are probation specific, but for an example of how to apply federal guidelines at the state level see Phillippi et al (2021).

Additional research has found that individual probation officer characteristics influence how they approach their duties as an officer. Research has analyzed how approaches to being a probation officer vary, revealing that juvenile probation officer characteristics including gender, age, length of employment, and cultural competency were not significantly associated with a rehabilitation orientation (Lopez & Russell, 2008). Work also has revealed that the likelihood of having a law enforcement orientation as a probation officer decreases with age (Shearer, 2002). Alternatively, some work has shown that juvenile probation officers specifically utilize more of a balanced approach with their clients integrating accountability and rehabilitation strategies (Schwalbe & Maschi, 2009). Given the

variation in probation officer practices it is possible that counties took different approaches to adopting the ethical guidelines provided by the Interbranch Commission.

Discretion in Juvenile Court

Another related area of scholarship examines discretion among juvenile court actors. Although the current study focuses on changes in juvenile probation policy and practices, recommendations were made due to an abuse of judicial discretion. It is therefore necessary to briefly discuss work that has examined discretion in juvenile court.

The juvenile court judge position is distinct from other positions in both juvenile and adult court (Sanborn, 2001). In fact, most workers in juvenile court expressed the opinion that youth rehabilitation should be a judge's primary concern. But other research has revealed that many judges feel that even in juvenile court the decisions made should focus mainly on societal protection (Bazemore & Feder, 1997). This highlights how complex the role of the juvenile court judge can be, and the difficult decisions they must make, which vary based on judicial discretion and jurisdiction. Specifically, some research has identified that type of judicial jurisdiction has been found to be significantly related to a judge's perspective on judicial waivers (Keenan, Rush, & Cheeseman, 2015). Analysis revealed that suburban judges were less likely to perceive juvenile waivers as an effective crime deterrent. Some work also has revealed that the juvenile justice system, and specifically the courts, are increasing emphasis on the offense rather than the offender, similar to criminal courts (Harris, 2007).

There are various factors that can influence judicial discretion including offender characteristics and judicial jurisdiction. For example, demographics of both the youth and the court representative influence the outcomes of cases (Leiber et al., 2016). Work has identified that the youth's race and gender, and the gender of the court representative are

significantly related to the outcome of the case (Lieber et al., 2016). Racial and gender disparities related to judicial and prosecutorial discretion have been identified (Ward et al., 2016). But some work on judicial discretion has revealed that minority groups, and specifically Black individuals, receive harsher sentences compared to White individuals, as well as other races (Bushway, 2001). Research also has revealed that offender race/ethnicity can influence choices in sentencing (Gainey et al.; 2005; Spohn & Holleran, 2000). Specifically, scholarship has identified racial disparities in charge severity (Starr & Rehavi, 2012). Controlling for legal and extralegal factors it is more probable for Black youth to be detained and be given a referral for intake compared to White youth (Leiber et al., 2016). Furthermore, Black and Hispanic offenders have an increased likelihood of going to prison in serious cases compared to White offenders, and the more serious a crime is, the larger the disparity in sentence length. That is, Black and Hispanic offenders are given longer sentences in more serious cases (Hauser & Peck, 2017). Research also has revealed that compared to similar White youth; minorities frequently receive more severe outcomes in juvenile court (Bishop & Leiber, 2012).

Research also has found significant variations in sentencing outcomes in juvenile court based on the sex or gender of the offender (Tracy et al., 2009; Leiber et al., 2016; MacDonald & Chesney-Lind, 2001). Additionally, in the earlier steps of the juvenile justice process scholarship has identified that females have a higher probability of experiencing informal mechanisms (MacDonald & Chesney-Lind, 2001). Some research also suggests that if a female is found guilty, the seriousness of the offense has an impact on the disposition of the court (MacDonald & Chesney-Lind, 2001). Males also are more likely to be detained than females, which was significantly and positively associated with the likelihood of intake (Leiber et al., 2016). Research

also has revealed that both judges and prosecutors tend to provide more lenient choices and verdicts to females compared to males when determining whether to offer a departure, and when deciding sentence length (Starr, 2015). Furthermore, males have an increased likelihood of going to prison compared to females, male offenders are given longer sentences, and the difference in sentence length increases as the seriousness of the crime increases (Hauser & Peck, 2017). This reveals how judicial discretion can influence the rest of the juvenile justice system including probation officers. These biases will have an influence on the types of cases that end up under probation officer supervision, and therefore arguably indirectly influence the decisions probation officers make.

Individual level factors other than demographics also may impact decisions in juvenile court. Research has revealed that sentencing decisions are more determined by legal factors than personal when examining serious crimes (Guevara et al., 2011). The choices made by individuals working in court are complicated, and as the type of offense varies there are different and contradictory goals for justice (Steffensmeier & Demuth, 2006). Very few juvenile workers found that it was necessary to decrease the proof needed to charge a juvenile if the judge perceived that they needed help from the court (Sanborn, 2001). Court workers frequently perceived that judges were not focusing enough on the cases they had and were not reviewing enough alternatives for treatment in urban jurisdictions (Sanborn, 2001). But the critique in rural jurisdictions is that the judge was not paying enough attention to the crime severity of various juveniles (Sanborn, 2001). Less serious crimes with minimal evidence may result in judicial decisions where extralegal factors are utilized to explain what the evidence cannot (Spohn & Horney, 1993). Scholarship suggests that in cases involving more serious crimes judges more frequently utilize extralegal variables

when determining the severity of punishment (Casidy & Rydberg, 2020). Furthermore, in a study conducted by Sanborn (2001), they found that the majority of personnel in all three courts in their study (urban, suburban, and rural) identified a unique working relationship between the judge and the probation officer (Sanborn, 2001). In some cases, judges would simply allow probation officers to develop a treatment plan, and the judge would just agree with it. Therefore, depending on the jurisdiction and discretion of the judge, the discretion of a probation officer may have a direct influence on the outcome of cases in juvenile court. It is therefore necessary to examine how abuse of judicial discretion has impacted probation practices.

THE PRESENT STUDY

As indicated in the literature review, previous research has focused on the effects of juvenile adjudication/probation and the impact that juvenile probation officer discretion has on juveniles. Given the serious implications of involvement in the juvenile system and the role that a juvenile probation officer plays, it is important to expand on the literature and explore the policies and practices of juvenile probation departments, especially in the wake of such a scandal. The present study attempts to fill this gap in the literature. Specifically, researchers wanted to understand how the Luzerne County scandal impacted individual juvenile probation departments across the state of Pennsylvania and if the juvenile probation officers were abiding by the recommendations outlined by the Interbranch Commission.

Data Collection Methods

The data for this project were collected through an intensive case study after IRB approval was granted. At the time of this project, there were a total of sixty-three chief juvenile probation officers in Pennsylvania. They were all contacted via a formal letter in the mail requesting them to participate in an

interview related to current juvenile probation practices. After about a month, the chief probation officers were sent a second letter. This was then followed up with an email. This ultimately resulted in a sample of sixteen juvenile probation officers that were interviewed during the Spring of 2018. Counties that declined to participate did so through a non-response, by phone call, or by providing a letter.

An interview guide was prepared through the examination of the Interbranch Commission report (see Appendix A). The recommendations outlined for juvenile probation departments were analyzed to develop questions that related to each of the recommendations. For example, the Interbranch Commission recommended that placement of juveniles be based solely upon a private facility's outcomes, rather than any enticements. Therefore, questions were created related to selection of facilities and policies regarding gifts/gratuities. Specifically, juvenile probation participants were asked what placement facilities they used on a regular basis, how often they used the facilities, for how long they had used the facilities and how new facilities were selected. In addition, participants were asked if they had policies in place regarding gifts/gratuities from facilities and what the policies stated. Lastly, recommendations also included specifications for juvenile file storage confidentiality, so county specific practices were discussed. It should be noted that the interview guide did not mention the Luzerne County scandal. Given the nature of the scandal, the researchers did not want participants to be defensive. However, once participants mentioned it, researchers used follow-up questions to inquire about participants' perceptions of the scandal and the changes that have been made within the offices.

The interviews were conducted over the phone by both authors, and all the probation officers agreed to being audio recorded. The average length of an interview was 45 minutes. The officers were told that at any point they could refuse to answer a

question or terminate the interview. The interview consisted of questions pertaining to individual and departmental demographics, placement facility use, juvenile files, political activity, and misconduct.

Analytic Methods

Multiple coding methods were utilized for analyzing the interviews including open coding, descriptive, values, and structural coding in combination with sub-coding (Saldaña, 2015). According to Saldaña (2015) open coding is a broad coding strategy that includes multiple types of coding methods. When open coding was utilized in the current study some of the specific coding methods that occurred among the coders included descriptive, values, and structural coding. When utilizing descriptive coding, a few words are utilized to describe the general subject of an excerpt. An example of this is “long distance”, which is defined as program/facility proximity to the county office and limited availability of programs/resources. Values coding also was utilized, which involves identifying codes that represent the values and attitudes of the interviewee. An example of this is “optimistic outlook”, which is defined as an expression of overall opinion of probation changes, and its impact. These coding methods were utilized throughout all the interviews as needed to thoroughly and successfully code the data.

Given that a major purpose of this interview was to discuss the impact of the scandal in Luzerne County in addition to open coding, structural coding also was utilized. This type of approach is defined as “a content based or conceptual phrase representing a topic of inquiry to a segment of data that relates to a specific research question used to frame the interview” (Saldaña, 2015, pg. 84). This is specific to the code “Luzerne Scandal”, which is any reference to the Luzerne County Scandal and how it

impacted the county. Structural coding was specifically used for when the Luzerne County Scandal was addressed.

Coding was conducted using a combination of word processing and spreadsheet software. The two authors also were the coders for the data. They went through the transcribed interviews in word processing documents utilizing the coding strategies addressed earlier to develop a codebook in the spreadsheet software that was ultimately utilized by both authors to code all the interviews. In order to reach consensus, the researchers met on multiple occasions to discuss the various codes that each identified until there was agreement on the codebook, which resulted in twelve months of coding and discussion.

RESULTS

The information in Table 1 highlights the frequency in which different codes occurred within the interviews.

Individuals from juvenile probation departments in sixteen different Pennsylvania counties participated in interviews. Ten of the participants were from juvenile probation departments in small counties (fourth, fifth, sixth, seventh, and eighth class counties- a population of less than 210,000 (County Commissioners Association of Pennsylvania, 2020)). Six of the participants were from juvenile probation departments in large counties. The sixteen individuals were either the chief juvenile probation officers (ten), deputy chief juvenile probation officers (four), or supervisors (two) in their respective counties. Their experience as juvenile probation officers ranged from nine years to thirty-nine years. This section outlines the analysis of the interviews and the themes identified.

Table 1
Frequency of Codes

| Code | Description | Frequency |
|-------------------------|---|-----------|
| Facility Use | Reference to use of facilities for placement | 14 |
| Private | Explanation of private facility use | 16 |
| Public | Explanation of public facility use (YDS, Forestry, etc.) | 13 |
| Shelter | Short term (unsecure care) prior to adjudication/disposition | 6 |
| Placement/Residential | Long term treatment outside of home | 16 |
| "Annual" Contracts | Description of established contracts/relationships with select programs | 12 |
| Luzerne Scandal | Reference to the Luzerne County Scandal and how it's impacted the county | 9 |
| Program/Resource Use | | |
| Equity of Program Use | Explanation of how program use is decided | 16 |
| Gratuities | Role of gratuities in selecting program, policy | 15 |
| Practice models | Types of strategies being used in counties to effectively treat juveniles | 13 |
| Juvenile File Storage | Outline of file storage practice | 12 |
| File Disposal Method | Files kept, shredded in house, third party, uploaded electronically | 16 |
| File Access Security | Parties that have access to confidential juvenile files | 16 |
| Status of Filing System | Currently in the process of updating system, or is up to date | 5 |
| Political Activity | Identification of political activity policy for officers | 16 |
| Running for office | Policy in place if a probation officer seeks a political office | 6 |
| Informal Enforcement | Reference to no enforcement of policy unless it is reported. No direct overseer | 9 |

Luzerne County

Individuals from nine counties referenced the Luzerne County scandal. Some explained their feelings about the scandal and how it made juvenile probation departments and the system as a whole look to others. An individual in one county relayed that the scandal “really annoyed the hell out of me because, okay, so these kids were... railroaded into court. The average length of some of [those] hearings, ninety seconds.” As far as the optics of the scandal, one individual commented that the scandal “bloodied us all...it just made us look stupid.” Another individual discussed that an attorney asserted the scandal made juvenile probation departments across the state look bad. This individual had a different view and responded that

the primary actors in the scandal were judges and that it was a “black eye for the legal profession.”

Other individuals discussed how the rule changes have impacted their practices. For example, placement review hearings used to be less formal. Representatives from the district attorney’s offices did not attend things like placement review hearings. One individual related the increase in the use of evidence-based practices and the juvenile justice enhancement strategies to the scandal.

A little bit in response to the Luzerne County situation where a lot of people were, had a lack of information and a lack of the ability to prevent that from happening. And so, they wanted to make sure they have all that infor-

mation. So now we do YLS [Youth Level of Service risks/needs assessment] on all the juveniles.

In addition, juvenile probation officers “have to document [decisions] and put all of it in your record as to why and such. Not saying it is a bad thing, it is just a little more cumbersome.” Regarding the additional colloquy for admissions as well as the changes to the court orders, one individual stated, “but the colloquies, the boxes, the notices, all of the extra bureaucratic paperwork, and all of the checks and balances that we have to do is a pain in the neck, I think.” Another was more blunt, “they are a pain in the ass.”

Facility/Program Use

Individuals from all sixteen counties provided information about their use of juvenile facilities/programs and all discussed the way in which juvenile facilities/programs were chosen. Ten counties explained their focus on programs in the community like MST (Multisystemic Therapy), ART (Aggression Replacement Training), day reporting centers, and trauma groups. As far as how programs are chosen, juvenile probation departments focus on various evaluations such as the YLS risks/needs assessment, psychological evaluations, and diagnostic reports. The type of behavior involved also affects the program decision. For example,

If it is a sex offense, we look for a program that has a focus on that type of offender. If it is a drug-related offense, there has been a history of drug abuse, then we are looking for a facility that focuses on addiction.

The decision to recommend placement is often made by a team. For example, one county has a “placement review team.” The team reviews the information provided by the juvenile’s probation officer, including “past placement records, YLS, any recommendation of [drug and alcohol] evaluation” and “all that is incorporated into the decision of

where the best fit is for the client’s needs.” “That prevents us from funneling all kids into one program and not putting them in an appropriate program.” Another indicated that they look at

[W]ho is going to be the best fit for the youths’ needs, issues, security concerns. I mean we’re...kind of looking at everything and trying to find the best fit. And sometimes that best fit is, you know, an hour and a half away. Sometimes the best fit is four hours away.

Even after the Luzerne County scandal, the decision to use specific programs and facilities is made after reflection on the best interests of the juvenile regardless of whether it is provided by the state or a private vendor.

Fifteen counties reported having policies on gifts/gratuities from private providers. Individuals indicated that policies used to be different before the Luzerne County scandal. “Back in the day providers would, oh they would host judges and probation officers on...trips. Even to Arizona.” Liaisons from the facilities would take juvenile probation officers to lunch. The providers would “wine and dine [juvenile probation officers]. They would take you out to dinner...buy drinks for you.” The Luzerne County scandal changed the way many departments operated. There was a perception that juvenile probation officers had their “hand out” and so many departments “really put a stop” to the practice of accepting gifts and gratuities. As one individual stated, they looked at their policies and said “hey, what the hell are we doing? Maybe we should clean up our shop here and, you know, let’s think about this from an ethics perspective.”

The idea that pens and notebooks can affect placement decisions was ridiculous to one individual,

But to say that influenced where I put a child, no. For me personally. I can’t speak for other people. I think when it first came down, I think it was a tough adjustment for people.

But I think that a majority of the people I worked with really felt like, ‘well I’m never going to place somebody at a facility because they gave me a pen.’ You know if it’s not in the best interest of the child.

However, to avoid the “appearance of any impropriety and, and you know, undue influence,” county policies changed. Current policies in the fifteen departments seem to vary. Two counties take the policy extremely seriously,

Again, the Luzerne County Kids for Cash thing has really created a new way of looking at how we, our relationship with providers. We accept nothing from providers. Nothing! To the point of even pencils, pens, coffee cups, cookies, whatever. We have taken it almost to the extreme that we will not take any sort of gratuity from a private provider.

In addition,

We really buckled down on any kind of, you know, any kind of gifts, even, it goes so far as, you know, when probation officers are at placements, they can’t, you know, they got to be careful about accepting a cup of coffee or a bottle of water.

Others are not as strict, “some counties go to the extent of not allowing [you to] take a pen from a vendor. I mean...we don’t go that far.” Another individual stated “but if they drop a pen on your desk and a notepad, you’re allowed to take it, you know.” One county had no policy in place for gifts/gratuities. When asked if there was a policy in place to make sure a program was not chosen because of a gratuity, one individual responded “we don’t have a specific policy to address that. I am the one that decides what placements we use.”

Political Activity

All sixteen counties had policies regarding partisan political activity. Individuals who work as juvenile probation officers are not permitted to engage in partisan political activity. “We are prohibited

from participating at all in anything political. We are not to even sign petitions. We can’t have a sign in our yard saying to vote for whoever. We are supposed to stay unbiased and out of that.” Another individual stated,

We are not allowed to participate in any kind of political activity. The order goes so far as to say that we are not allowed to sign any kind of petition for a potential political candidate...we are not allowed to use political signs on our properties. We are not allowed to be outspoken in support of a particular political candidate.

One individual summed it up like this, “you cannot make any contributions. Time or financially.” The concept of a lack of partisan political activity seems to be a policy that is well settled; however, the enforcement of such policies is rather informal. When asked if there was someone driving around looking for political yard signs, that individual responded “No! I don’t. But if somebody says, ‘hey so-and-so has one,’ I am going to verify it and then I will drive around.” In fact, nine of the departments have informal enforcement of the policy. “I don’t think there is anyone out there checking on us.”

Six departments discussed their policies regarding running for office. Individuals also indicated that running for office (such as magistrate) while working for juvenile probation would be a conflict. “If I wanted to run for magistrate, I would have to quit here.” “We’ve had several [probation officers] that want to run for school board positions and, you know, we have to tell them no,” stated another.

Juvenile File Storage

All sixteen counties discussed juvenile file confidentiality, though policies differ on method of storage, disposal, and access. Some counties are in the process of switching to electronic filing systems. As far as disposal, files are kept for different amounts of time. For example, one county keeps the files until the juvenile has turned twenty-six and the

file is then destroyed. Another county keeps the files for ten years after the case is closed. Other counties keep the files indefinitely.

Regarding file access, the counties have different policies. For example, one individual related that only juvenile probation officers have access to the files, even though the office is shared with adult probation officers. One individual explained that the department has to “have releases...signed before we can release anything. Both parent and juvenile sign those releases. Unless there’s a court order that, you know, is stating we’re to release something.” In contrast, another said “we do share information with facilities that we place kids with. We believe it is important they have a concrete picture of the kid when they are evaluating them for their program. So, we do share information with them.” Another juvenile probation officer allows individuals from Children and Youth and treatment providers to come in and view the files just as juvenile probation officers view the files. In explaining this, the individual stated, if a

Children and Youth officer needs to come in [for] some information... they come in here, they copy it, and they leave...same with the treatment providers, they can come in and get what they need from our files and just put them back.

SUMMARY AND DISCUSSION

The Luzerne County scandal made national news that shook Pennsylvania and its juvenile justice system to its very core. The Interbranch Commission was established in response to the scandal, and it developed specific policies and practices that counties were expected to adopt.

The results overall highlighted many notable findings. Respondents provided detailed information about their county policies and practices related to facility use, file storage, and political activi-

ty. In addition, many respondents discussed their perceptions of the Luzerne County scandal and the impact of the scandal on their departments. Perceptions of the Luzerne County scandal revealed frustration among some of the respondents due to the nature of the scandal, but also because of how negative it made juvenile probation appear in Pennsylvania. Additionally, due to the scandal, practices among juvenile probation departments have become stricter and more formal. Many counties reported using community programming with the juveniles in which programs were chosen based on evaluation and need. Although county practices somewhat differ on how the policy is implemented, most counties in the sample reported strict policies on not being able to accept gifts/gratuities from private providers. Similarly, all counties in the sample did not allow for participation in partisan political activity, but it was a bit unclear on how this policy was enforced. Lastly, the confidentiality of juvenile files was discussed by all counties in the sample, but the policies and practices related to access, storage, and disposal varied noticeably.

The results of this study show that even with overarching recommendations by the Interbranch Commission there is going to be variation in practices due to limited resources, location, and general probation officer discretion. This is crucial as it highlights how these officers are abiding by or trying to abide by the guidelines, but that this does not necessarily look the same across the state. This has implications for statewide probation guidelines, and policies nationwide.

When implementing statewide policies, it is necessary to acknowledge how resources will differ across jurisdiction, and more specifically, between smaller and larger areas. For example, some respondents found the new rules regarding paperwork to be cumbersome and unnecessary. In addition, a program that is best suited to treat a juvenile might only be available in a major city, which is an easy

decision for probation officers nearby, but those areas that are more isolated need to weigh the costs and benefits of placing the juvenile in the program, the costs of travel, and having the youth be separated from family for a longer period of time. In this case what is best for the juvenile might differ across jurisdiction, which is up to the discretion of the probation officer. Given this is the case, counties may be more effective if they coordinate and plan the locations of different program offerings, such as Multisystemic Therapy (Henggeler et al., 1992), Cognitive Behavior Therapy (Landenberger & Lipsey, 2005), or Aggression Replacement Training (Goldstein & Glick, 1994), so that most or all counties will have access to these programs with limited difficulty. By evaluating offerings and community corrections needs in different counties at the statewide level programs/services can more effectively be delivered to juvenile offenders throughout multiple counties with limited familial separation. In addition, consideration needs to be given to the limited workforce in smaller counties. With the new rules and guidelines, much more time is now needed to complete paperwork and hearings related to juvenile matters. The additional time required in this arena could lead to a decrease in time spent working with juveniles. More research is needed in this area to determine the impact that the new juvenile rules and guidelines have had on individual juvenile probation officers and their caseloads.

More work needs to be done on the impact of accepting gratuities from specific program providers, political involvement, and record keeping. Given the circumstances of the Luzerne County scandal, having a consistent rule of not accepting gratuities makes sense, but certain counties have interpreted the rule differently. Select counties consider certain items “harmless” and one probation department indicated that a specific county policy is not necessary. More research is needed in this area to determine if a change to the statewide guidance is necessary. Showing consistency in practice statewide will

send a unified message to program providers, especially those getting mixed messages about gratuities from different counties. These statewide policies were established in response to judges getting bribes from private corrections providers for youth. This is consistent with work that has highlighted how gratuities can often lead to bribery (Ruiz & Bono, 2004), and if policies are abused, the integrity of an entire department can be called into question. Given the responses from probation officers, this is something that arguably needs to be more effectively established and monitored statewide. This is similar to the findings on politics within the county. Although each county had the same thing to say about politics in that they were not able to show support for anyone, there was no method for officially monitoring, and reporting this behavior. Nothing is stopping a probation officer from becoming politically involved unless someone decides it should be reported.

Lastly, although more research needs to be done on the practice of juvenile probation recordkeeping, arguably it should be consistent statewide. The current use of electronic and paper records, the inconsistent methods of record disposal, and the varying policies on access are problematic. For example, disposal of records may create issues when juveniles move into different jurisdictions or when a juvenile becomes involved in the adult criminal system. In addition, privacy issues may arise when treatment providers and individuals from other governmental agencies are given access to juvenile records without releases. A statewide unambiguous policy outlining record keeping responsibilities and the process for granting access to juvenile records would help make record finding, maintenance, expungement, and privacy more consistent, efficient, and effective.

It is important to acknowledge the limitations of this study. The primary limitation is that only individuals from sixteen of the sixty-three juvenile probation departments across the state of Pennsylvania

were interviewed. Other juvenile probation departments may have been impacted differently by the scandal and recommendations. It is necessary for future research to explore the policies and practices of additional counties, especially if changes to the rules and guidelines are to be made. Additionally, exploring the policies and practices of juvenile probation departments in different states including their consistency and effectiveness could help inform policies and practices in Pennsylvania, and improve the generalizability of the findings in the current study.

CONCLUSION

This study provided an examination of Pennsylvania juvenile probation departments and provided insight into the policies and procedures of the departments in the wake of the Luzerne County scandal. The study was based on in-depth interviews with individuals from sixteen juvenile probation departments across the state of Pennsylvania. Specifically, the researchers focused on how the Luzerne County scandal and subsequent Interbranch Commission on Juvenile Justice recommendations impacted juvenile probation practices. Although a majority of juvenile probation departments had made changes to their policies and practices after the scandal, the changes are inconsistent across counties, most likely due to ambiguity in the guidelines. Statewide policies may need to be updated to allow for less discretion in the interpretation and implementation at the county level.

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Appendix A: Interview Guide

Demographic information

- What is your position with the juvenile probation department?
- How many years have you been in juvenile probation?
- What is your race?
- What is your sex?
- What is your education level?
- How many juvenile probation officers are employed by your department?
- What are the educational requirements in your department?
- How many of your juvenile probation officers are men/women?
- On average, how many juvenile cases does your department handle per year?

Placement/Detention facilities

- Which juvenile placement facilities do you use?
 - Are these facilities public or private?
 - What is the ratio of staff to juveniles in these facilities?
 - Specifically, which programs do you use in these facilities?
 - How many times per year do you use these facilities?
 - Which of these facilities does your county have long-term contracts with?
 - What kind of contracts do you have with these facilities?
 - How long have you used these facilities?
- Which juvenile detention facilities do you use?
 - How many times per year do you use these facilities?
 - What is the ratio of staff to juveniles in these facilities?
 - Which of these facilities does your county have long-term contracts with?
 - What kind of contracts do you have with these facilities?
 - How long have you used these facilities?
 - How do you select these facilities?
- Do you have policies in place preventing individuals in your probation department from accepting gifts and/or gratuities from private juvenile facilities?
 - What are these policies?
- Do you have policies in place preventing individuals in your probation department from accepting employment with private juvenile facilities after they leave the probation department?
 - What are these policies?

Juvenile files

- What policies do you have in place regarding confidentiality of juvenile files?
 - Where are they kept?
 - Who has access?
 - How long do you keep the records?
 - How do you dispose of records?
 - How do you dispose of paperwork containing confidential information?

Political activity

Do you have policies in place regarding political activity of juvenile probation employees?

What are these policies?

Who imposed these policies?

Are these policies in writing?

Who monitors these policies?

What are the repercussions for violating these policies?

Misconduct

What policies do you have in place to deal with misconduct on the part of probation officers?

How do you handle misconduct on the part of probation officers?

Do your probation officers belong to a union?

Have you had issues with misconduct on the part of probation officers?

Appendix B: Consent Form/Interview Protocol

The following is a consent form for a research project. It is a project on juvenile probation in Pennsylvania, carried out by the principal investigator (PI) of this project from XXXXXXXX. This form is provided to the interviewee to read before they officially agree to begin the interview. Before the interview can start, both the investigator and the interviewee will sign two copies. The interviewee will be given one copy of the signed form.

Consent for Participation in Interview Research

I volunteer to participate in a research project conducted by Dr. XXXXX from XXXXX. I understand that the project is designed to gather information about juvenile probation practices in Pennsylvania. Specifically, the goal of the study is to understand the demographics of juvenile probation officers, the use of placement/detention facilities, the confidentiality of juvenile files, and office practices regarding political activity and misconduct. I will be one of approximately 60 people being interviewed for this research.

1. In order to be eligible to participate in this study I must be a Chief Probation Officer in the State of Pennsylvania, or a chosen representative that works in the officer's jurisdiction.
2. My participation in this project is voluntary and there is minimal risk for participating. I understand that there are no direct benefits for my participation. I may withdraw and discontinue participation at any time without penalty. In order to withdraw you need to inform the reviewer that you would like to do so. If my responses were audio-recorded they will be deleted, and any typed or hand-written notes will be deleted/shredded. If I decline to participate or withdraw from the study, no one affiliated with Pennsylvania Juvenile Probation will be informed.
3. I understand that most interviewees will find the discussion interesting and thought-provoking. If, however, I feel uncomfortable in any way during the interview session, I have the right to decline to answer any question or to end the interview.
4. Participation involves being interviewed by researchers from XXXXX. The interview will last approximately 30-60 minutes. Notes will be written during the interview. An audio tape of the interview and subsequent dialogue will be made. If I don't want to be taped, I need to inform the interviewer before the interview begins.
5. I understand that the researcher will not identify me by name or probation office in any reports using information obtained from this interview, and that my confidentiality as a participant in this study will remain

secure. Subsequent use of records and data will be subject to standard data use policies which protect the anonymity of individuals and institutions.

6. Colleagues and superiors will not be present during the interview nor have access to raw notes or transcripts. This precaution will prevent my individual comments from having any negative repercussions.

7. I understand that this project has been approved by the XXXX Institutional Review Board for the protection of human subjects (Phone XXX-XXX-XXXX).

8. I have read and understand the explanation provided to me. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this study.

9. I have been given a copy of this consent form.

My Signature

Date

My Printed Name

Signature of the Investigator

For further information, please contact:

Dr. XXXXX

email: XXXX@XXX.XXX

phone: XXX-XXX-XXXX

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