



Virtual Public Meeting Series: Responding to COVID-19 and the Call for Racial Justice

Session Two: A Conversation With Juvenile Justice Agencies

**CRIMINAL
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COUNCIL**



Introduction

On September 2, 2020, from 5pm – 7pm, the Criminal Justice Coordinating Council (CJCC) convened the second session in its four-part virtual public meeting series where the theme was “Responding to COVID-19 and the Call for Racial Justice: A Conversation with Juvenile Justice Agencies”.

The public meeting and its attendant discourse explored two questions. The first question pertained to how the pandemic affected the operations and procedures of the agencies and the populations they serve and how they responded to the challenges presented. The second question related to agencies’ efforts to address systemic racism and its manifestations, as evidenced by ongoing and escalating social responses resulting from the killings of, among others, Breonna Taylor, George Floyd, and Jacob Blake by police officers.

Mannone Butler, CJCC Executive Director, set the stage by addressing the reason for convening the session and how CJCC is uniquely positioned to host this discussion due to the agency’s role in facilitating collaboration and data-driven decision-making across the District’s justice system agencies to address systemic issues. After sharing the rules of engagement for the virtual meeting with the approximately 76 participants, Ms. Butler introduced the program’s moderator, Yasmine Arrington.

Prior to introducing the speakers and kicking off the panel discussion, Ms. Arrington, Founder and Executive Director of ScholarCHIPS, a non-profit organization based in Southeast, DC that provides college scholarships, mentoring, and a support network to children whose parents are incarcerated, thanked CJCC for inviting her to facilitate the meeting, and for the opportunity to engage in a timely discussion related to the consequential implications of COVID-19 and the perils presented by systemic racism and its impact on the juvenile justice system.



Ms. Arrington welcomes panelists and attendees to CJCC's second session of the Virtual Public Meeting Series

Ms. Arrington then introduced each of the panelists:

- Avis Buchanan, Director, Public Defender Service (PDS),
- Michael Coligan, Commander, School Safety Division, Metropolitan Police Department (MPD),
- Peter Krauthamer, Presiding Judge, Family Court, DC Superior Court (DCSC),
- Ramey Kyle, Commander, Youth and Family Services Division, Metropolitan Police Department (MPD),
- Clinton (Clint) Lacey, Director, Department of Youth Rehabilitation Services (DYRS),
- Terri Odom, Director, Court Social Services Division (CSSD), and
- Elizabeth (Liz) Wieser, Deputy Attorney General for the Public Safety Division, Office of the Attorney General (OAG).

COVID-19 Panel Discussion

The moderator posed the following two questions regarding COVID-19 to the panelists to set the stage for discussion:

- How has the pandemic impacted your agencies and the individuals in your care?
- What have you done in response to the pandemic and the challenges in providing care?

Court Social Services Division (CSSD)

Director Odom indicated she would address the issues and challenges presented from the perspective of supervising youth under the care of the Court and Director Lacey (DYRS) would comment on the challenges of detaining youth and providing rehabilitative services. In her opening remarks, she commented on the stark realities the pandemic presented to the Court and its mandate to adjudicate juvenile proceedings and ensure appropriate and responsible stewardship over justice system involved youth. She highlighted the fact that in response to the evolving health crisis, federal and local governments, including the Court, transitioned to limited and suspended activities.

In response to the realities presented, the first order of business for CSSD was to perform a needs assessment regarding the availability of personal protective equipment (PPE) to support the needs of its staff and charges. However, given the fact that only agencies designated with first responder functions were eligible to access and procure PPE supplies, Ms. Odom and Judge Krauthamer sought to re-designate the Court's mission and functions, thereby enabling them to acquire the requisite PPE to support their needs. The petition for re-designation was successful.

The next challenge to address involved reprogramming and rescheduling Court activities. Given CSSD provides in-person programming for its charges six days a week at the Balance and Restorative Justice (BARJ) centers, a primary directive involved ensuring the health and safety of employees and the population they serve. CSSD proceeded to align its programming procedures and processes with policies and procedures implemented by the DC Public School system (DCPS). In turn, Court programs and processes were developed to ensure social distance and accommodate the need to implement telework protocols for staff. Very importantly, Court operations were restricted and policies and procedures were modified to accommodate virtual hearings. Additionally, some face-to-face youth programming activities were suspended temporarily, and in-person meetings were replaced with WebEx, FaceTime, Teams, and Zoom meetings. Essentially, the agency was forced to adapt its policies and protocols without much time to plan and prepare.

Ms. Odom also sought to identify suitable locations to serve the youth and preserve programming, while remaining mindful of the need to retrofit existing facilities in order to ensure social distance and the safety of employees and charges. Disposable PPE was provided for all parties. In concluding her remarks, Director Odom praised her staff for their resilience, commitment, and courage in responding to emotionally tenuous and physically hazardous health circumstances presented by the pandemic.

Department of Youth Rehabilitation Services (DYRS)

Director Clinton Lacey prefaced his remarks by highlighting his appreciation for his staff who exhibited bravery and resilience despite the dangers presented by the COVID-19 virus. He explained that his agency is responsible for responding to the needs of pre-adjudicated youth in detention and residential facilities, as well as committed youth who are in the community.

According to the director, COVID-19 sparked fear among staff who were not able to telework. In turn, operationally, the first task DYRS undertook was to employ a “phased approach” to maintaining operations at its Youth Service Center (YSC) and New Beginnings, a facility for committed youth.



Director Lacey discusses DYRS responses to COVID-19

The next significant task for the organization was to minimize populations in residential and secure settings. Director Lacey emphasized that the primary consideration for his organization was limiting the exposure of charges and staff to the dangers presented by the virus. Similarly, the goal was to release youth from secure placements to their homes if they did not present a risk to public safety.

Director Lacey explained that notwithstanding the pandemic, the mission of DYRS continued to be to serve as a vehicle for the rehabilitation of youthful offenders. He emphasized that the overriding goal was to provide seamless services and support for the youth.

Throughout the pandemic, CSSD and DYRS have routinely coordinated their efforts regarding facilities, including shifting CSSD’s intake operations to YSC. Their primary goals have been and continue to be to minimize viral spread, protect the health and welfare of charges and employees, and to protect against the spread of the disease by isolating, quarantining, and testing charges and staff as circumstances dictate.

Director Lacey concluded his remarks by commending the bravery of his staff, community members, and Credible Messengers for continuing to show up to support the youth; and very importantly he praised the youth for remaining committed to pursuing a course of growth and self-development. He also acknowledged the criticality of partner agencies coordinating their efforts.

DC Superior Court

Judge Peter Krauthamer offered that the challenges presented to the Court by COVID-19 forced the Court to pivot from its normal operations and employ virtual technology. Difficult decisions were made, and the Family Court placed an emphasis on convening remote hearings for detained youth at the time of the shutdown, and for juveniles who were arrested and were eligible to be detained after the shutdown. Probable cause hearings occurred without delay because CSSD, DYRS, MPD, OAG, and PDS were motivated to ensure due process protections for youth. Also, as a practical matter, witnesses (primarily police officers) testified remotely.

Throughout the pandemic, the Court has convened status hearings and sentencing remotely. Judge Krauthamer said that delinquency trials were initially suspended. However, in August, the Court conducted its first trial remotely for a youth who was securely detained pending adjudication. The Judge

shared that virtual trials present distinct challenges particularly with respect to trial preparation and interpersonal interactions among counsel, prosecutors, witnesses and other parties.

Judge Krauthamer also commended CSSD, DYRS, OAG for their efforts to identify youth who did not present a danger to the community and were in turn released into the community. The Judge commended all parties for executing their duties diligently and magnificently.

Public Defender Service (PDS)

PDS Director Avis Buchanan highlighted two ways in which COVID-19 has affected PDS clients, one promising and one troubling. The positive development involved agencies identifying children who did not need to be confined in secure facilities and removing them, coupled with identifying cases that did not need to be pursued in court. These actions helped reduce exposure to the virus for youth, justice agency staff, and the community at large. The troubling effect on PDS clients involves the suspension of trials. Further, the requirements for physical distancing impose impediments to and limitations on the ability to adequately represent youth clients, and to provide optimal constitutional protections and quality representation for them. Director Buchanan also indicated that initial stay-at-home restrictions on the general population, and, in turn, on lawyers and their clients presented unique procedural challenges. Lawyers could not directly engage clients nor perform necessary investigations. Additionally, Director Buchanan identified other relevant factors presented by current operations that affect the essential requirements to uphold constitutional protections and ensure due process including:



Director Buchanan explains difficulties faced by PDS clients during COVID-19

- Lack of access by counsel to traditional courtroom space
- The impediments to interpersonal interactions resulting from mask wearing
- The requirement to socially distance, thereby limiting discernible and palpable responses to direct and cross-examinations by counsel
- The civil rights issues presented to juvenile clients who remain in secure facilities while awaiting trial
- The documented reality of decreased positive outcomes for clients when virtual hearing processes are employed
- Determining how to approximate normalized proceedings given present realities

Office of the Attorney General (OAG)

COVID-19 has presented unique challenges to the nature of the work performed by OAG. Deputy Attorney General Wieser acknowledged that the juvenile justice system is naturally adversarial and the pandemic has made their job even more challenging. She offered that the goal of the juvenile system is to promote the care and rehabilitation of children. Further, she indicated that the OAG attempts to ascertain the motivations of youth who commit crimes, in order to determine whether and to what extent adjudication is required.

Deputy AG Wieser also emphasized that a number of considerations must be taken into account related to youth who touch the system. Generally speaking, offenses committed by juveniles often include a number of contributing factors, including: family strife, bullying, peer pressure, feelings of inadequacy, and economic insecurity. To the extent feasible for OAG, procedurally it may be more prudent and



Deputy AG Wieser outlines alternative approaches to addressing youth system contact

compassionate not to subject children to the system, and to employ diversion strategies. In that regard, OAG coordinates its efforts with DYRS, MPD and PDS to effectuate alternative strategies to deliver better outcomes. Further, her office refers youth to the Alternatives to the Court Experience (ACE) diversion program administered by the Department of Human Services (DHS). OAG also utilizes restorative justice approaches to address harms committed by youth. Additionally, mental health referrals are utilized via the High Fidelity Wrap-Around Care Planning Process administered by the Department of Behavioral Health (DBH).

The overarching goal of OAG's efforts during the pandemic has been to minimize the number of youth who touch the system and to insulate them, the Court, and OAG staff from harmful exposure to the virus, as well as to ensure the timely processing of judicial proceedings.

Deputy AG Wieser acknowledged that the virtual hearing process has fostered continuity in facilitating sentencing and status hearings. Nonetheless, concerns continue to exist relative to normalizing Court operations, minimizing protracted detention of youth, and resuming trial proceedings. Further, the OAG continues to strive for quick and equitable resolution of juvenile cases, notwithstanding the extraordinary, abnormal, and challenging circumstances presented by the pandemic. Finally, OAG remains committed to generating better outcomes on behalf of youth, minimizing their touches to the system, and limiting the extent and length of their involvement with the system.

Systemic Racism Panel Discussion

Metropolitan Police Department (MPD)

The two MPD commanders representing the School Safety Division (SSD) and the Youth and Family Services Division (YSFD) shared similar perspectives regarding MPD strategies to address systemic racism and its impact on District youth.

For context, since 2005, MPD has provided security coverage at DCPS schools. A \$22 million contract supports that effort. Through that contract, MPD has been responsible for training, deploying and monitoring all aspects of security for 300 security officers and school resource officers (SROs). Currently, the goal is to shift resources and responsibilities from MPD directly to schools so that they can develop requisite training for their staff in an effort to tailor their safety protocols. Further, a



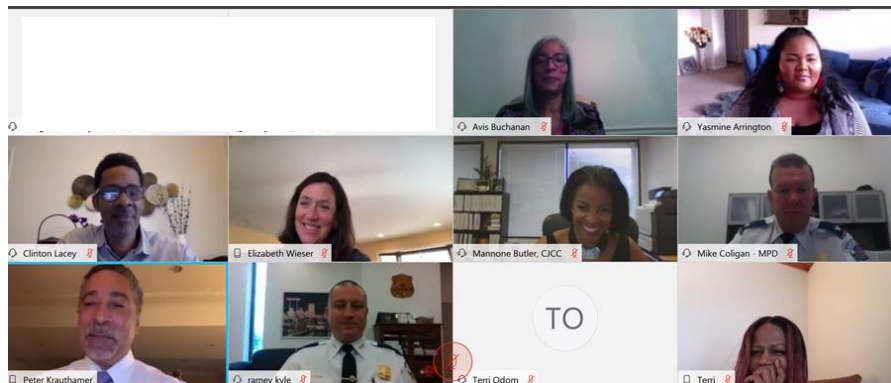
Commander Coligan discusses MPD efforts in battling youth system contact

new Memorandum of Agreement (MOA) between MPD and DCPS is slated to go into effect in October before students return to school. At the present time, DCPS is working to identify who will be responsible for school safety and training, and it appears the responsibility will reside with the Office of School Safety. Utilizing that strategy will afford autonomy to schools and free MPD to perform its primary duties, thereby potentially reducing flashpoints that arise when officers are present on school campuses.

PDS

Director Buchanan shared her perspective on how race and racism impacts the juvenile justice system. She noted that, overwhelmingly, juvenile cases are comprised of black and brown clients who are poor, and those clients deserve the benefit of competent legal representation regardless of their ability to pay. Further, she offered that the efforts of her office are intended to ensure justice at large and specifically for individual clients. Additionally, her office and staff endeavor to raise the level of practice and to seek redress for police misconduct, simultaneously employing data to bolster their defenses. A prime directive for PDS is to level the playing field.

In summary, Director Buchanan offered she has challenged her office to step back and review their assumptions regarding appropriate methods to represent clients. For example, although juvenile client cases may be heard in drug court, community court, and mental health courts, those proceedings result



Session Moderator, Panelists, and Host, Director Butler of the CJCC

in clients having criminal records that follow them for a lifetime. Additionally, her office and staff have sought to eliminate cash bail, which far too often is prohibitively expensive and the reason why black and brown clients remain behind bars. Lastly, perpetual efforts are undertaken to litigate, advocate for, and employ legislation to ensure due process for juvenile clients; because courts and jails should not be the first and last resorts for the clients they serve.

OAG

Deputy AG Wieser acknowledged the reality and impact of systemic racism existing within the juvenile system. She offered the perspective that courts are often the “easy solution” to turn to even though they may not address the root cause of the accused individuals’ misbehavior and transgressions. She offered that some youth are beset by social ills that undermine their success. They may be poor, suffer from mental health challenges or have family issues. Consequently, when they touch the juvenile system, it is most often for simple assault, which is a misdemeanor. In turn, other options may be available such as diversion, and assessments may offer perspective on whether their actions were precipitated by emotional or mental health challenges. Additionally, employing alternate intervention strategies at schools such as de-escalation, conflict resolution, and mediation may offer assistance in mitigating the typical predisposition to criminalize Black youth behavior.

CSSD and DYRS

Director Lacey and Director Odom offered some thoughts on their agencies’ efforts to dismantle systemic racism in the juvenile justice system. Director Lacey commented that although this may be an uncomfortable topic, it is important, and recent tragic events have helped to surface the necessary conversations. He pointed out that the existence of systemic racism within the system is acknowledged by him personally, and other colleagues throughout the District, and he sees this as an opportunity for the District to be a national leader in tackling that work. He addressed the over-reliance on police to deal with social and public health issues as if they were criminal issues, and suggested a movement away from that model. He then urged the use of data and policies to address issues of youth delinquency in a way that will address the underlying causes as a broader approach than solely as the criminalized aspect of youth behavior. Director Lacey concluded his remarks by pointing out that the youth are doing what they need to do to grow and heal, but the system also needs to do the work necessary to grow and heal and improve as a holistic entity.

Director Odom offered some personal perspectives, as well as musing on the often-disparate treatment of Black youth vs White youth. She echoed Director Lacey's remarks, and commented that there is a duality to addressing systemic racism. On the one hand, agencies need to look outwards at how they are serving the community. Agencies also need to look inward to how they operate internally. As an example, Director Odom challenged folks to think about changing the processes of the points of entry to the criminal justice system for Black and Brown youth, especially processes that do not lead to system involvement for White youth in similar circumstances. From a personal perspective, Director Odom talked about the importance of community in assisting young people and her view of the charge of her agency to attempt to recreate that environment. She also suggested a heavy investment in communities that have access to conflict resolution tools such that conflicts do not have to rise to the level of involving the police. As an overview of her agency's work, she pointed out that the programming aims to go further than a rote fulfillment of a small number of requirements, and instead goes further in services such as building literacy, enhancing future opportunities, building various competencies that will allow the youth to truly change their circumstances such that they will not recidivate.

The coordinated responses from CSSD and DYRS led them to offer the following general insights:

- Greater efforts need to be made to limit criminalizing and over-incarcerating Black youth
- Greater reliance must be placed on data and studies to guide policy
- Organizations must challenge themselves to step outside of their comfort zones and engage in discourse and events that will result in delivering different and positive outcomes for youth
- Partnerships are required to address and heal existing problems
- Unequal justice is applied to Black versus White youth – whereas for committing the same crime, one youth's indiscretion could result in a criminal charge, and another would receive diversion or "no papering"
- There is considerable value in exploring intervention and rehabilitative strategies
- The transgressions committed by youth are sometimes rooted in expedient and desperate acts and a desire to feel relevant and worthy among their peers

Question and Answer Session with Attendees and Panel Participants

- ❖ What happens if a child is homeless or feels threatened and does not have a place to which they can be released?
 - Deputy AG Weiser answered MPD would call the Child and Family Services Agency (CFSA) to place the child temporarily, or contact Sasha Bruce House which provides placement or housing services for homeless youth.
- ❖ Will youth 18 years-old and older receive absentee ballots to vote in the upcoming election?
 - DYRS is involved in a voter mobilization and turn-out effort. Additionally, DYRS considers civic engagement to be part of the process for youth advocating for themselves.
- ❖ Please discuss over-policing of Black and Brown people.
 - MPD explained they are exploring alternative interventions to criminalizing youth transgressions. In many instances, they are summoned to respond to a situation that may require conflict resolution or an intervention that requires mental health support which

resides outside of their purview. The commanders stressed it is important to explore the root causes that drive youth behaviors as well.

- ❖ Are there any efforts being directed at records expungement during COVID-19?
 - PDS is doing it to a limited extent and information is available on their website.
- ❖ PDS, how do you address inadequate representation for defendants?
 - PDS offers training for trial lawyers who have passed the Bar, they have also assisted the Court in developing trial practice standards, and provided training for appellate lawyers interested in representing youth in appellate proceedings.
- ❖ How can OAG contribute to prevention efforts?
 - OAG is focusing efforts at Patterson and Turner elementary schools to reduce truancy, and rather than prosecuting parents. The office utilizes case managers to assist with empowering parents to be vigilant in supporting their children's education and reducing truancy.
- ❖ How do the agencies feel their workforces represent the communities they serve?
 - DYRS has attempted to maintain a workforce that mirrors the community by using Credible Messengers who hail from the community and hiring persons who live in the Wards where DYRS operates.
 - MPD employs a Cadet program comprised exclusively of DC residents, and MPD's workforce is 65% minority and 23% female.
 - OAG echoed the remarks of DYRS and employs Cure the Streets staff who understand and live in communities where violence occurs.
 - PDS utilizes returning citizens who serve on their Board, in addition to maintaining a diverse staff, coupled with employing persons with criminal records.
 - The Court staff is diverse in its makeup and reflects the demographics of the District, and even though the Court does not have a say in the judges who are appointed, the Court has a fairly diverse group of judges.
 - CSSD recruits for diversity among its probation officers and deputy clerks, in addition to pursuing hires who have attended local universities in the District. It has also hired persons with criminal records whose convictions do not preclude them from being hired.

Closing

The panelists agreed the virtual public meeting was instructive and sought to identify fertile ground to pursue progress and fairness. Very importantly, the session highlighted the extent to which coordination exists as a standard practice among all parties. Further, all parties noted that the juvenile system adapted to accommodate the needs and challenges presented by the pandemic. Kudos were given to CJCC for organizing and executing a successful and relevant discourse on juvenile justice matters.

Director Butler thanked Ms. Arrington for her facilitation of the meeting, in addition to CJCC staff and The Clearing for helping to organize and execute the session. Finally, Director Butler indicated that another convening will take place on September 16, which will highlight Court operations and prosecutions (with respect to adults) during the pandemic.