

**Statement
of the
Council for Court Excellence
before the
Committee on Public Safety and the Judiciary,
Council of the District of Columbia**

**Juvenile Speedy Trial Equity Amendment Act of 2008
Bill 17-431**

October 20, 2008

Introduction

Good morning, Chairman Mendelson, Councilmember Wells and members of the committee. My name is June Kress. I am Executive Director of the Council for Court Excellence (“CCE”). With me today are Priscilla Skillman and Peter Willner. My testimony today addresses bill number 17-431, the Juvenile Speedy Trial Equity Amendment Act of 2008. No judicial member of CCE participated in the formulation of this testimony.

I appear today on behalf of the Council for Court Excellence, which is a local nonpartisan civic organization founded in 1982 to improve the administration of justice in the courts and related justice agencies in the District of Columbia. For 26 years, CCE has been a unique resource that brings together members of the civic, legal, business, and judicial communities to work in common purpose to identify and promote court reforms, improve public access to justice, and increase public understanding and support of our justice system.

CCE has worked closely with the DC Council and the Committee on the Judiciary on many issues, including the 1994 Probate Reform Act, the Office of Administrative Hearings Establishment Act of 2001 and subsequent amendments, as well as on a number of sentencing related matters. In June 2005, we testified before the Judiciary Committee in joint hearings with the Committee on Health regarding persons with mental health diagnoses in the DC Jail and Correctional Treatment Facility. The CCE Expungement Subcommittee proposed legislation that was largely adopted as the Criminal Record Sealing Act of 2006. Most recently, CCE has provided the Judiciary Committee public statements on Bill 17-750, the Parole Credit Maintenance Amendment Act of 2008, and Bill 17-841, the Eyewitness Identification Procedures Act of 2008.

Overview of the Juvenile Speedy Trial Equity Emergency Act of 2007

The Juvenile Speedy Trial Equity Emergency Act of 2007 (“the Act”), temporarily amends the D.C. Code to grant speedy trial rights to juveniles ordered into shelter care. Prior to the Act, District law required a fact-finding hearing within set time frames only for those juveniles ordered into secure detention.

The Act establishes time frames from initial hearing to adjudication hearing for juveniles in secure detention and in shelter care. There are three types of cases articulated in the Act that determine the deadlines for adjudication. These case types and the time frames to adjudication are: (1) 45 days for the most serious charges, which are murder, assault with intent to kill, first degree sexual abuse, burglary in the first degree, or robbery while armed, and the child has been ordered into secure detention before a fact finding hearing;¹ (2) 30 days for charges other than the most serious charges listed in (1) and when the child has been ordered into secure detention before a fact finding hearing;² and (3) 45 days whenever a child has been ordered into shelter care before a fact finding hearing.³

Background of the Evaluation

Following a competitive bidding process, the Council of the District of Columbia contracted with the Council for Court Excellence to study, evaluate, and report performance data on the first six months of the Act’s implementation and to make recommendations to the Council on how to proceed with permanent legislation on this issue. The result is the Council for Court

¹ District of Columbia Official Code. Section 16-2310, paragraph B. 2001 Edition. 2008 Winter Supp. West Publishing Group.

² District of Columbia Official Code. Section 16-2310, paragraph A. 2001 Edition. 2008 Winter Supp. West Publishing Group.

³ District of Columbia Official Code. Section 16-2310, paragraph C. 2001 Edition. 2008 Winter Supp. West Publishing Group.

Excellence's *Final Evaluation on the Effect of Speedy Trial Legislation*, provided to the DC Council on September 15, 2008. The *Final Evaluation* provides the detail supporting the major conclusions outlined in this testimony.

The evaluation parameters were for juvenile detention orders issued at initial hearings in the District of Columbia Superior Court Family Court from January 15, 2008, through July 15, 2008. The evaluation does not reflect the frequent and complicated changes in juveniles' detention status after the initial hearing, either prior to or after adjudication.

The evaluation method uses comprehensive current-year quantitative data from the DC Family Court and the Department of Youth Rehabilitation Services and qualitative data resulting from entrance and exit interviews with juvenile justice system stakeholder agencies and with interested outside organizations and persons. The evaluation disaggregates the quantitative data from the six-month study by the three types of cases articulated in the Act (see page 3) and further disaggregates the data into two three-month cohorts for purposes of studying whether there were case processing improvements during the study period.

It is interesting to note that there appears to have been no prior examination of the DC juvenile justice case flow process. In the Council for Court Excellence's experience, the case flow method of examining the justice system is critical to understanding systemic performance, identifying issues of concern and targeting solutions. The evaluation should be treated as a "baseline" for comparison to future studies.

Context of Juvenile Cases and Arrests

It is useful to place the Juvenile Speedy Trial Act and the Council for Court Excellence evaluation in context. From January 15 to July 15, 2008, 1,591 juvenile cases were filed in the DC Family Court. Of these, 430 (27%) were detained at the initial hearing, with two-thirds of

these juveniles being placed into secure detention and the remaining one-third placed into shelter care at the time of initial hearing; the remaining 1,161 juveniles (73%) were released until trial, under the supervision of Family Court Social Services. The Juvenile Speedy Trial Act and thus this evaluation do not include the 73% of juveniles who were not detained before adjudication.

There were 1,768 juvenile arrests from January 1 to June 28, 2008, according to statistics available on the DC Metropolitan Police Department website; the number of juvenile arrests for the same time period in 2007 was almost identical. During these two time periods, juvenile arrests represented only 7.5% and 7.2%, respectively, of all DC criminal arrests.

The detained juvenile population during the evaluation period was overwhelmingly African-American (95%) and male (88%). (Girls were involved in 12% of the detained cases during the six-month study.) The average age of the study period's juvenile respondents at the time of initial hearing was 16 years.

Major Findings and Recommendations Related to the Juvenile Speedy Trial Equity Act

The principal finding of the evaluation is that the District of Columbia has achieved a high rate of compliance with the new speedy trial deadline for juveniles in shelter care as well as with the previous speedy trial deadline for juveniles in secure detention. It appears to the Council for Court Excellence that this compliance record is a result of several factors:

1. strong leadership and commitment to the goal within each stakeholder agency;
2. the history of collaboration among all stakeholder agencies through their participation together since 2005 in the Juvenile Detention Alternatives Initiative;
3. an increase in public resources devoted to achieving compliance with the Act's mandate of prompt juvenile case resolution; and
4. a keen awareness among all stakeholder agencies that the six-month performance record was being evaluated for the purpose of this report to the DC Council.

The evaluation found no significant deleterious effects of the Juvenile Speedy Trial legislation on the administration of justice or public safety that should forestall its permanent enactment. The recommendations and major findings of the evaluation are summarized below.

Recommendation 1: The DC Council should expedite the permanent enactment of the Juvenile Speedy Trial Equity Emergency Act of 2007, with no further modification. The Act has achieved its twin goals of holding youth accountable more promptly for their actions and ending the practice of locking-up youth before trial only because there is a waiting list for shelter care beds.

Finding 1.a. The District of Columbia juvenile justice system is moving shelter care cases more quickly to adjudication in 2008 than in 2007, before the trial deadline was enacted. In 2007, only 53% of shelter care cases were adjudicated within 45 days. From January 15 to July 15, 2008, 83% of shelter care cases were adjudicated within the Act's new 45-day deadline.

Finding 1.b. Juveniles ordered to shelter care are spending substantially less time in 2008 than in 2007 in secure detention waiting for an available placement in shelter care. Shelter care wait list times for the 2008 study period averaged two days with a median of one day. By comparison, from January to June 2007, the monthly average length of stay for males – who comprise the largest percentage of these cases – varied from a low of 10 days to a high of 18 days spent in secure detention while awaiting the court-ordered placement in shelter care.

Finding 1.c. There is no support for reducing any of the 30-day or 45-day statutory Juvenile Speedy Trial time frames to shorter deadlines. We should add that there was some concern expressed to us as we started our evaluation that, because there is no

statutory deadline for “disposition” or sentencing in juvenile cases, we might find that the effort to adjudicate cases more quickly might lead to delay between adjudication and disposition. We found no such delay.

Recommendation 2: The DC Council should continue funding the additional attorney positions in the Office of the DC Attorney General devoted to prosecuting juvenile matters as long as the juvenile caseload remains at current levels. Likewise, the DC Family Court should continue to dedicate the additional calendars now devoted to adjudicating juvenile matters.

Finding 2.a. There is broad support for the statutory time frames articulated in the Juvenile Speedy Trial legislation and for the positive effects of these time frames on juveniles. However, compliance with the time frames requires more resources than had been devoted to juvenile case processing prior to passage of the Act.

Finding 2.b. The stakeholder agencies support the public policy of speedy resolution of juvenile cases. Nonetheless, they caution that, to continue their progress toward meeting the statutory time frames, the resource infusions which accompanied the Juvenile Speedy Trial Act must be maintained as long as the juvenile caseload remains at current levels.

Other Major Findings and Recommendations

The evaluation contract also asked CCE to make any other recommendations we deem appropriate following our research and analysis. The most important of these recommendations follow.

Recommendation 3. Because of its oversight responsibility and the public’s right to know how government is performing, the DC Council should mandate both continued analysis and routine public reporting of the juvenile justice case processing information covered by this evaluation.

Finding 3.a. Systemic case processing information is essential for the stakeholder agencies to understand whether they are meeting the statutory and other case processing time frames, what resources are required to comply, what problems exist, and how to resolve the problems.

Finding 3.b. The data analysis performed by the Council for Court Excellence for this limited case-processing evaluation is not being done currently by the stakeholder agencies. Without continuing to analyze the compliance data, performance on these rudimentary measures may slip rather than continue to improve as it did during the study period.

Recommendation 6. The DC Council should mandate additional study of the DC juvenile justice system as it continues to monitor and promote community understanding of the District of Columbia's juvenile justice system. These are described below, in approximate priority order.

6.a. Study juvenile recidivism. Currently, there is no evidence that juvenile recidivism data is systematically analyzed and reported by the juvenile justice system stakeholder agencies, though recidivism data is considered on a case-by-case basis in making individual placement and disposition decisions. Without systemic recidivism data, it is impossible to completely understand and evaluate the effects of the rehabilitative policies and programs of the juvenile justice system or to make appropriate resource allocations. The quality and comprehensiveness of the DC Family Court, DC Superior Court Criminal Division, and Department of Youth Rehabilitation Services databases will make such a study feasible. DYRS has recently released a limited recidivism study covering new commitments to DYRS for calendar years 2006, 2007 and the first quarter of 2008.

It is equally important to study recidivism of juveniles placed on probation under the supervision of the DC Family Court.

6.b. Study the juvenile non-detained population in order to understand the full DC juvenile justice system. During the six-month study period, almost 75% of all juveniles charged in the Family Court were released until adjudication rather than detained and thus were not included in this study.

6.c. Study denied continuances. There was some concern expressed by stakeholder agencies that statutorily permissible continuances were not being granted by the Court, though this concern fell outside of the evaluation's mandate to examine causes of case delay. Continuances with a legitimate statutory basis that are denied may thwart the intent of the legislation.

6.d. Study patterns of juvenile abscondance and failure to appear. Juvenile abscondance and failure to appear data are recorded in the Family Court's database and were included with the dataset provided for the evaluation. Abscondance and failure to appear patterns were outside the evaluation's scope, though stakeholders expressed interest in this issue. Further analysis is warranted to determine the frequency and circumstances of abscondance and failure to appear in order for stakeholder agencies to take appropriate corrective action.

This concludes the statement of the Council for Court Excellence. We would be happy to address any questions or comments that you may have.