

**STATEMENT OF THE HON. RICHARD D. TAYLOR, JR.
JUDGE, CITY OF RICHMOND, VIRGINIA
JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT**

**AT THE MEETING OF THE CRIME SUBCOMMITTEE OF
THE HOUSE JUDICIARY COMMITTEE**

Thursday, March 11, 1999

I am Richard D. Taylor, Jr., and I am a Juvenile and Domestic Relations District Court judge in the City of Richmond, Virginia. I have served in this capacity for nearly six years. In February of 1999, the General Assembly of Virginia reelected me to a second six-year term. Prior to my service as a judge, I served as a Special Assistant for Policy and Deputy Counsel to former Virginia Governor L. Douglas Wilder. Before serving with Governor Wilder, I was an associate attorney in the law firm of Hill, Tucker & Marsh.

I appear today to share my perspective, the perspective of a juvenile court judge, with regards to "graduated" or "progressive" juvenile court sanctions.

Brief Discussion

My research of various systems of graduated/progressive juvenile sanctions resulted in my discovering much of which I wholeheartedly agree. Protecting our citizens must be a paramount concern of judges. Early intervention is critical. All services, including probation, should be meaningful. Guidance with regards to sentencing options for various infractions is very useful, especially when supported with appropriate resources.

At the same time, I found much that gave me pause for great concern. Although many of the "progressive" or "graduated" systems appear to match common sense - - and commonly used - - sanctions to offenses, and offer judges some opportunity to deviate, the bottom line is always the same: judges are strongly expected to follow the guidelines - - period. Reasons for any deviation must be reported for the record. Thus, "voluntary" feels far more like "mandatory." I am opposed to mandatory guidelines for reasons I will discuss later in my testimony.

Further, there appears to be a move in these systems from "offense and offender" oriented dispositions to "offense" oriented dispositions. These offense-oriented dispositions are dictated, at times, by such things as a matrix. If I am correct in my sense of these statutes, a mandatory system of graduated or progressive sanctions constitutes a significant departure in juvenile jurisprudence - - one that treats dissimilarly situated juveniles as if they were all alike.

Yet, these youth are not that "collective," singular, devoid of individuality, and alien population of television's popular "Voyager" series. *Our children are not "Borg!"*

It is very important that a judge retain the discretion to tailor dispositions to protect the public and meet those needs of the child that assist in protecting the public. Those ends are not always in opposition. Often, meeting rehabilitative needs will stem future delinquency, and thus, protect the public.

Finally, much of the legislative history regarding the implementation of graduated sanctions across the nation includes extensive language concerning the importance of early intervention in the criminal justice system. *I agree with the importance of early intervention in the criminal justice system, but note that with the prudent use of available resources and agencies, "early" intervention should actually take place far before these youth are brought to the court as delinquents.*

Why wait for these youths and their families to default to abject failure before we intervene with appropriate prevention services?

Accountability and the Protection of the Public

I promised myself that when I became a judge you would never see a child return to me with a petition numbered 13 or 22. I could not conceive of how a youngster could build up that number of papers with a judge who was actually holding the youth strictly accountable for her actions! I also understood the importance of being consistent and clear in my dispositions.

And while I believed it critical that I address the rehabilitation needs of the particular youth that may have contributed to the occurrence of the delinquency, I never believed that having a drug addicted mother, being poor and having a father in a corrections facility,

absolved one in any way from being held strictly accounted for a criminal act.

Thus, I absolutely agree with many of the concerns which, for example, Utah and Texas sought to address with their juvenile graduated/progressive sanction statutes. But, the real world of juvenile courts is not as simple as prescribing a 'lock 'em up early and often' antidote.

After several years on the bench, I noticed that a number of youth had returned to me with their 13th or even 19th delinquency petition! I was horrified. After investigation, I discovered that in nearly every instance, these youth had been incarcerated for their transgressions for determinate periods of time, or had been committed to the state - - some several times. Yet, here they were.

I attribute this circumstance, in no small part, to the fact that for years, our court had only two significant dispositional alternatives outside of detention sentences: probation and commitment to the state.

Continued probation - - infraction after infraction - - without serious consequences, including incarceration, sends a terrible message to our youth about accountability. However, commitment without significant behavioral services and services in the home, meant that these youths were returned to the community with the same delinquent disposition, or worse, and to a home or community ill prepared to meet the challenges and the circumstances of these youth.

**Accountability through "Continuum of Services" and Partnership
with Social Services: Not "Borg"**

The City of Richmond, about three years ago, developed what is described as a "continuum of services" to address the gap between probation and commitment. This program consists of a number of graduated sanctions for juveniles. The sanctions range from intensive day supervision to bootcamp. The services attendant the sanctions include anger management, counseling, and the monitoring of school attendance and participation and teaching values.

Each program has its own specific criteria for placement, and ranges from restrictive to very restrictive. The judges have total discretion as to the use of the programs. And, interestingly enough, the programs are utilized to the point that we sometimes have to wait to have

youth placed in them. For bootcamp, this often means incarceration for the youth until a new bootcamp intake begins.

Further, because of the city's attempts to wed the many juvenile programs to corollary city services, we witnessed results that we had not enjoyed before.

Virginia juvenile court judges have broad jurisdiction, and this jurisdiction extends to being able to order parents, whose children appear before the court, and other household members to cooperate with certain services.

We found that when sanctions were joined with orders by the court for the Department of Social Services to provide "stabilization" services in the home - - including assessment, parenting classes, counseling, and other assistance - - when the City created a mentoring component to the services - - when these services were coupled with residential drug treatment opportunities and intensive mentoring/counseling services for girls - - *we began to affect change in these youth in a way which appears to have lowered the rate of recidivism and de-escalated the seriousness of subsequent offenses. The combination of services and sanctions turned these youth around in ways that we did not accomplish for their older siblings - - for whom these programs did not exist.*

Further, we took note that with appropriate services and sanctions we never saw most of these youth again.

Many of these "services" could easily have taken place as early intervention services, and in my mind, obviated some future delinquency.

I understand that "prevention" and "services" talk is not always the most popular of discussions in the context of juvenile delinquency. However, I also know that when these services are provided in conjunction with necessary sanctions, the public is better protected than with incarceration and no meaningful, individually tailored services.

Graduated/Progressive Sanctions and Funding Service Programs

No discussion of juvenile dispositions is complete without recognizing the critical role of funding.

The Utah and Texas programs place great emphasis on the role of the probation officer. In fact, Texas tied participation in the program to

funding. The lion's share of funding for participants then went to hire additional probation officers. I am all for voluntary guidance in sentencing and am definitely in favor of additional probation officers. However, one study of the Texas experience with "progressive" sentencing suggests that because the funding there did not include the payment of benefits for the probation officers, many jurisdictions found it difficult to take advantage of the offer. Further, participants expressed concerns that they not only needed funds for personnel, but also - - and critically -- they needed funds for programs to implement the guidelines! Thus, for some, the program raised the specter of an "unfunded mandate."

Finally, these participants noted that there was a major shift from diversion programming and funding - - even when diversion was appropriate - - to loading everyone with a delinquent contact into the system. The impact on caseloads and costs were of great concern.

Conclusion

The concept of graduated sanctions is in many ways an appealing one, and its use is a common practice in many jurisdictions. Having guidelines, standards and consistency in sentencing - - for persons similarly situated - - is desirable. However, the *mandated* use of graduated sanctions deprives judges of critical discretion to formulate the best disposition to protect the public and rehabilitate delinquent youth.

Delinquent youth offer the court an unending range of personalities and complexity of circumstance. The combination of appropriate sanctions and rehabilitative services can and does protect the public. Thus, non-mandated graduated sanction programs that are accompanied by adequate funding for services and the implementation of the sanctions best serves the public. In the long run, however, pre-delinquency prevention programs are the key.