



Indiana Public Defender Council Juvenile Defense Project

Improving Juvenile Defense Services in Indiana

LAST WEEK IN REVIEW: JUVENILE DELINQUENCY NEWS AND UPDATES

February 5, 2018

Spotlight on Indiana Juvenile Public Defenders



This week's featured Indiana juvenile public defender is **Bonnie Adams**. Bonnie's juvenile public defender appointments come from both Benton and Warren Counties.

At the age of 17, Bonnie was the first intern for the Benton County Prosecutor's Office. Throughout college, she continued to return home summers to work at that office.

After graduating from Ball State University, Bonnie worked as a Probation Officer for Howard County. She became an alcohol and drug counselor and taught Prime for Life

classes to first time offenders. Bonnie graduated from Barry

University School of Law in Orlando Florida in 2010, and was hired by the firm of the former Prosecutor she had first interned for. She remains with that same law firm today as a partner. Barce & Adams, P.C., has offices in Warren and Benton Counties. Bonnie's primary areas of practice are criminal defense, juvenile defense, divorce and family law, CHINS and municipal law.

Bonnie's passion for juvenile defense began when she became a mentor to juveniles at the Pendleton Juvenile Correctional Facility. She was reminded of the youth her parents fostered throughout her own childhood. Bonnie's favorite part of being a juvenile defender is the ability to effect change through advocacy, "to be the voice that doesn't fade away over time but rather becomes more prominent until things are done differently." Bonnie's goal is to not only advocate for better individual outcomes but to help change the system through advocacy in a way that future juveniles will benefit from. Bonnie has found sometimes the most significant advocacy that brings about change takes place in her office rather than the courtroom. In her own words, "As juvenile defenders we are blessed to have the privilege of being able to spend time with children and inspire them, to encourage them, to give them hope and watch them grow and overcome. For these and many other reasons, I am so glad to be a part of this great group of people called juvenile defenders. "

Bonnie is a Hoosier, raised on a horse farm with her three siblings. She has 12 nieces and nephews. In 2012, her nephew Cody passed away after a long and hard fought battle against Leukemia. Bonnie credits Cody with teaching her what is important in life, how to make the best of bad circumstances, and how a little bit of humor can make a tough situation a bit easier to get through.

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Juvenile Case Review

J.G. v. State of Indiana, 49A02-1706-JV-1419 (1-31-18)



Adjudication for Dangerous Possession of a Firearm affirmed. Adjudication for Possession of Firearm W/O a License reversed on double jeopardy grounds.

J.G. appealed arguing his detention by police officers was unconstitutional; his confession was not voluntary; portions of audio recording were inadmissible; and his true findings for both dangerous possession and carrying w/o a license violated double jeopardy. In response to the 4th Amendment challenge to the stop and arrest, the COA held that because J.G. and O.D. were pacing back and forth in front of a store at 1:30 a.m., in a high crime area, and then fled with police arrived, there was reasonable suspicion to make an investigatory stop. Further, the COA held that the facts and circumstances permitted the officers to hold the juveniles at gunpoint and handcuff them while they investigated—and that those restraints did not rise to the level of arrest. And the officer promptly determined that J.G. was in violation of curfew, which created probable cause to continue the detention. In response to Art. 1, Sec. 11 reasonableness challenge to the stop and arrest (*Litchfield* factors), the COA held there was a high degree of concern or suspicion; the level of intrusion was not unreasonable because the curfew violation, and then discovery of the gun; and there was a significant possibility that the “would-be robbers might be armed”, the need to use force to detain was substantial.

COA held that J.G.’s confession was voluntary because it was short in duration; there was no evidence that the cold weather and use of handcuffs until after J.G. agreed to sign the waiver form factored into the decision to answer questions; and officer comments about the costs of investigation may not have implied that J.G. would have to pay those costs.

In response to J.G.’s contentions that the audio records contained inadmissible hearsay, the COA presumed that the trial court ignored any inadmissible statements—if they were inadmissible.

Finally, the COA remanded to vacate the carrying w/o a license adjudication because it violated double jeopardy. This differs with the COA’s recent decision (*J.R. v. State*, 49A02-1704-JV-754 (Dec. 8, 2017)), wherein the court held that as a matter of law juveniles cannot be prosecuted for carrying w/o a license, because that offense only applies to adults.

<http://www.in.gov/judiciary/opinions/pdf/01311801tac.pdf>



Other news:

In California: Last week, the California Supreme Court held that the provisions of Proposition 57, passed in 2016 and eliminating direct filing of juveniles in adult court, provides a potential ameliorating benefit (to have the neutral judge, not the prosecutor, determine whether a child is transferred to adult court) and must be applied retroactively to all cases pending before it took effect.

The opinion can be found here: <http://www.courts.ca.gov/opinions/documents/S241231.PDF>

Side note: In this legislative session, a bill was introduced that would have eliminated direct file in Indiana. Unfortunately, SB1389 did not get a hearing. The introduced bill can be read at:

<http://iga.in.gov/legislative/2018/bills/house/1389#document-8c168ce6>



Other resources:

Resources addressing homelessness and youth: A report and one page fact sheet was recently released by the University of Chicago. *Missed Opportunities: Youth Homelessness in America* is based on national data and youth interviews. The report highlights the frequency of homelessness among youth and provides recommendations.

The full report is available at: http://voicesofyouthcount.org/wp-content/uploads/2017/11/ChapinHall_VoYC_NationalReport_Final.pdf

A one pager sheet is available at: http://voicesofyouthcount.org/wp-content/uploads/2017/11/ChapinHall_VoYC_1-Pager_Final_111517.pdf

The Coalition for Juvenile Justice released the report, "Addressing the Intersections of Youth Homelessness and Juvenile Justice Involvement: Principles for Achieving Change" in February 2017. The report offers recommendations to prevent youth involvement with the juvenile justice system from leading to homelessness and from youth becoming involved in the jj system because of homelessness.

<https://www.juvjustice.org/sites/default/files/ckfinder/files/FINAL%20Principles%20.pdf>

Legislature: Juvenile related bills - what's still "alive" this session?

This is a short legislative session. If a bill has not passed out of a committee by now, it is dead. Bills that do not pass 3rd Reading by next tomorrow in the House and Wednesday in the Senate will be dead.

The following are juvenile related bills. All bills can be read at <https://iga.in.gov/>.

Data collection on youth in adult court

HB1228 Requires the criminal justice institute to: (1) track certain information concerning juveniles under the jurisdiction of an adult court due to a juvenile court not having jurisdiction; (2) track certain information concerning waivers of juvenile court jurisdiction; and (3) publish the information annually.

Reverse waiver and nonsuspendability

SB 292 repeals the offense of auto theft and receiving stolen auto parts; provides that a person who knowingly or intentionally exerts unauthorized control of a motor vehicle or a component part of a motor vehicle, with the intent to deprive the other person of any part of its value or use, commits theft, a Level 6 felony; provides that a person who knowingly or intentionally exerts unauthorized control of a motor vehicle or a component part of a motor vehicle, with the intent to deprive the other person of any part of its value or use, and has a prior unrelated conviction for a qualifying offense, commits theft, a Level 5 felony; defines "qualifying offense"; repeals the offense of theft as a Level 6 felony if a person has a prior unrelated conviction for theft or criminal conversion; prohibits the expunged conviction records of an undocumented alien to be sealed or redacted; **prohibits a minor in adult court to waive, as part of a plea agreement, the right to transfer jurisdiction to juvenile court for adjudication and disposition under certain circumstances; and amends the statute concerning the suspension of a sentence for a person with a juvenile record makes conforming amendments.**

New offense – unlawful encroachment by a sex offender

SB 12 would affect juveniles placed on the sex offender registry as they are included in the definition of sex offender for the new crime. The bill provides that a sex offender who establishes a residence: (1) with the intent to reside at the residence; and (2) within a one-mile radius of the residence of the victim of the offender's sex offense; commits unlawful encroachment by a sex offender, a Level 6 felony. The bill was amended by consent to provide for a waiver of the residency requirement, provide certain exceptions to prosecution, and add a mens rea requirement.

CHINS /TPR bills still alive:

SB 381 amends Ind. Code § 31-34-1-2, to provide the child and other children in the home are CHINS if a child is a victim of certain offenses or is living in the home with an adult convicted or charged with committing certain offenses and is awaiting trial. It is meant to require all children to be removed if one child in the home is physically abused.

SB 402 would have required DCS to file a petition for termination of parental rights if a child's parent, guardian, or custodian accumulates a total of three instances of certain acts or omissions. The bill was amended by consent to remove the “three strikes” provisions and all other changes except for the provisions requiring the pre-dispositional report to be made available 48 hours before a hearing.

SB428 requires the local school to participate in a case conference in a CHINS case when DCS prepares a pre-disposition report and requires DCS to share drug test results.



Registration open for *free* March CLE: Litigating Juvenile Drug Cases

You are invited to attend one of the next series of free regional JTIP trainings in Hendricks, St. Joseph, and Wayne Counties on the topic: Litigating Juvenile Drug Cases. This interactive 3 hour CLE will focus on equipping juvenile public defenders with the means to effectively and creatively challenge a variety of alleged drug offenses. The training will incorporate relevant Rules and US Supreme Court and Indiana caselaw, and will cover investigation; discovery – what you need and how to get it; theory of the case – what it is and why you need it; and litigating drug cases at a suppression or fact-finding hearing.

Presenters: Rachel Roman-Lagunas and Jill Johnson

3 hours CLE

Cost: **Free** to public defenders handling juvenile delinquency cases

Register by clicking on the links below or through IPDC's website at <https://www.in.gov/ipdc/>

March 2nd 1:00-4:30 p.m. (EST) Hendricks County

Danville Public Library , 101 S Indiana St.. Danville, Indiana 46122

Register at: <http://www.cvent.com/d/0tqvhr>

March 9th 1:00-4:30 p.m. (EST) St. Joseph County

Ivy Tech, 220 Dean Johnson Blvd, South Bend, IN 46601

Register at: <http://www.cvent.com/d/ztqvn4>

March 23rd, 1:00-4:30 p.m. (EST) Wayne County

Ivy Tech (Johnson Hall, Rm.3428), 2357 Chester Blvd., Richmond, IN

Register at: <http://www.cvent.com/d/htqv7b>

What is the 6th Amendment Task Force and how can juvenile public defenders provide input?

The Indiana Task Force on Public Defense was formed to address the concerns about Indiana's indigent defense system and services following the release of a report by the Sixth Amendment Center in 2016. The Task Force is chaired by retired 7th Circuit Court of Appeals Judge John Tinder and is staffed by the Indiana Public Defender Commission. The Task Force includes a subcommittee specifically addressing needs and concerns with the delivery of juvenile defense services as well as subcommittees on CHINS and TPR services and appellate services. The Task Force Membership, all meeting dates, the Sixth Amendment Center Report, and registration for the "listening tour" can be found on the Commission's website at:

<http://www.in.gov/publicdefender/2333.htm>

Listening Tour"

The Indiana Task Force on Public Defense is hosting a listening tour at locations around the State. The public is invited to provide input at any of the locations. Space is limited to 50 participants, so please register if you would like to have your input on public defense heard. If you are unable to attend one of the events but wish to comment, you may forward your comments to information@pdcom.in.gov or mail to "Indiana Task Force on Public Defense", 309 West Washington Street, Suite 501, Indianapolis, IN 46204. If you wish to remain anonymous, please indicate this in your e-mail.

Listening tour dates and locations:

2/9/18 – Indianapolis

Location: Indiana Government Center, Conference Rooms 4 & 5

Time of Event: 2:30 – 4:30 p.m.

2/15/18– Fort Wayne

Location: Allen County Public Library Main Branch

Time of Event: 5:30 p.m. – 7:30 p.m.

3/20/18—Evansville

Location: Vanderburgh County Public Library

Time of Event: 5:00 p.m.—7:30 pm

3/22/18—Clark County

Location: Purdue Polytechnic

Time of Event: 5:00 p.m.—7:30 p.m.

3/27/18—Valparaiso

Location: Valparaiso Law School

Time of Event: 5:00 p.m.—7:30 p.m.

