

ORDER

It is ORDERED that effective immediately the attached revised Juvenile Referee Program Standards are adopted and shall be applicable in any vicinage or county that operates a Juvenile Referee Program pursuant to the provisions of Rule 5:25-2 of the Rules Governing the Courts of the State of New Jersey; this set of revised Program Standards supersedes the previously revised set of standards adopted and promulgated by the Court by Order of November 8, 2000.

For the Court

Deborah T. Poritz

Chief Justice

Dated: December 10, 2002

JUVENILE REFEREE PROGRAM STANDARDS (REVISED)

(includes December 10, 2002 [November 8, 2000] amendments)

I. Authorization

- A. Juvenile Referees are authorized pursuant to Court Rule 5:25-2 which provides:

The judge of the Family Part may with the approval of the Chief Justice appoint a suitable person to act as referee. The recommendations of the referee shall be without effect unless approved by the court and incorporated in an appropriate order or judgment of the court.

- B. Uniform procedures and policy for implementation of the Juvenile Referee program shall be made pursuant to standards developed by the Supreme Court.

II. Appointment of Juvenile Referee

As required by R. 5:25-2, the judge of the Family Part shall submit, through the Assignment Judge of the vicinage, the name of the juvenile referee (with the exception of those already approved) to the Chief Justice for approval.

III. Qualifications of Juvenile Referee

- A. Educational Requirements

Admission to the New Jersey Bar and two years of related experience in juvenile case processing or representing or prosecuting of juveniles in the family court, or

A master's degree from an accredited institution in mental health or social or behavioral science discipline, including degrees in social work, counseling, counseling psychology, mental health counseling or education, and three years of related experience in juvenile case processing and conducting intake service conferences in the family court, or

A bachelor's degree from an accredited institution in a mental health or social or behavioral science discipline and four years related experience in juvenile case processing and conducting intake service conferences in the family court, and

- B. Legal or technical knowledge of the Code of Juvenile Justice, the Code of Criminal Justice, and the Rules of Evidence, and
- C. Experience in conflict resolution.

IV. Training

No juvenile referee shall hear a case without experience or training in all of the following areas:

- ! the Code of Juvenile Justice (including appropriate dispositions and the family-based disposition philosophy), the Code of Criminal Justice, and the Rules of Evidence,
- ! the standards approved by the Supreme Court,
- ! conflict resolution techniques, and
- ! the availability and use of resources and services in the vicinage.

V. Types of Cases

Cases appropriate for hearing by a juvenile referee include those that would ordinarily be scheduled for an informal or counsel non-mandatory hearing before a Family Part judge, with the exception of those cases that have been heard in an Intake Services Conference by the juvenile referee. Typical cases might include but are not limited to:

- ! fourth-degree offenses, and disorderly and petty disorderly persons offenses in accordance with the Code of Juvenile Justice,

- ! unsuccessful Intake Services Conferences,
- ! unsuccessful JCC Conferences when circumstances indicate that an Intake Services Conference would not be appropriate,
- ! repeat minor offenses involving a juvenile who has exhausted the diversionary alternatives of the court, and
- ! violations of court orders/probation resulting from a recommendation of the juvenile referee or an informal court disposition.

VI. Procedure

Procedure in the juvenile referee program shall be in accord with the following:

- A. Notices of the hearing date shall be sent to the juvenile, the juvenile's parent(s) or guardian, the police, and witnesses for the complainant. The juvenile and parent(s) or guardian shall be notified that the juvenile may request a hearing before a judge instead of a juvenile referee.
- B. Hearings, whenever possible, should take place in a courtroom or a hearing room. The room should be dignified and have appropriate security provisions.
- C. The juvenile referee shall explain that the hearing is a fact-finding hearing after which the referee will make a recommendation to the judge as to the disposition. The juvenile referee shall advise the juvenile that he or she may request a trial de novo in the event that the juvenile declines to accept the juvenile referee's recommended disposition. The trial de novo must be requested at the time of the hearing. The trial de novo by the judge may be a review on the record of the juvenile referee proceedings if all parties consent to that approach. Complainants/victims should be advised that any objections to the findings or recommendations of the juvenile referee should be made known to the juvenile referee at the time of the juvenile referee hearing. When the victim/complainant seeks a review before the judge because of

disagreement with the juvenile referee's recommendation, this review by the judge does not constitute double jeopardy for the juvenile, since the juvenile referee's recommendation is neither a judicial adjudication nor acquittal.

- D. Although the hearing may be conducted in an informal manner, all witnesses, including the juvenile, should be sworn.
- E. The hearing shall be recorded on an approved recording medium.
- F. Individuals who are represented by counsel may appear with counsel before the juvenile referee.
- G. The juvenile referee may hear a plea at a fact-finding hearing.

In the event of a not guilty plea, the juvenile referee may conduct a hearing. Witnesses for the state (victim, complainant, law enforcement officer) will be called to testify and the juvenile shall be given an opportunity to ask questions of the state's witnesses. The juvenile shall be given an opportunity to testify or to remain silent and to call any witnesses on his or her behalf. At the end of the hearing, the juvenile referee shall make findings of fact, enter a finding of "delinquent" or "not delinquent," and make (a) recommendation(s) regarding disposition.

In the event of a guilty plea, the juvenile referee shall determine, by inquiry of the juvenile, a factual basis for the plea (ask the juvenile what happened, request a clear statement indicating guilt of the offense in the complaint as it is or as amended), gather other pertinent information, enter a finding, and make recommendations regarding disposition.

- H. When recommending a disposition, the juvenile referee shall consider any recommendations expressed by the victim, the complainant, or a law enforcement officer as to how the case should be disposed.
- I. Restitution, financial obligations, and any other obligations imposed on the offender, parents, or guardians shall be made part of the proposed written order that the juvenile referee submits to the Family Part judge for review and approval.

- J. Where follow-up is necessary to determine compliance with court ordered obligations (e.g., restitution, community service, or special conditions), a subsequent review hearing may be scheduled before the juvenile referee.

VII. Dispositions

Dispositional alternatives include those available to the Family Part judge with the exception of out-of-home placement. In determining the appropriate disposition to recommend to the Family Division Judge, the Juvenile Referee shall consider balanced and restorative justice principles. Consideration shall be given to the impact of the offense on the victim or victims, the impact of the offense on the community; and the threat to the safety of the public or any individual posed by the child. Consistent with the need to protect the public, services and sanctions for juveniles shall provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the developemnt of competencies to enable juvenile offenders to become responsible and productive members of the community. The juvenile referee can recommend dismissal of the complaint or an adjudication of delinquency. The juvenile referee may recommend any of the dispositional alternatives available under N.J.S.A. 2A:4A-43b with the exception of N.J.S.A. 2A:4A-43b(4),(5),(6), and (7). Examples of dispositional alternatives include, but are not limited to, supervised probation, suspension of driver's license, community service, restitution and fines including Violent Crimes Compensation Board (V.C.C.B.) assessments, counseling, and referral to appropriate community agencies. In determining restitution, the juvenile referee before arriving at a recommendation shall determine the losses sustained by the victim(s) and take into consideration the juvenile's ability to pay. No juvenile referee recommendation will be effective until the proposed finding and recommended order is signed by a Family Part judge.

VIII. Confidentiality

All proceedings and recordings of juvenile referee matters shall be subject to the same provisions of confidentiality as provided for by statute and court rule for all other juvenile proceedings.

IX. Support Personnel

Suitable trial court staff should be made available to perform clerical duties, court or hearing room duties, and any other duties necessary to the successful administration of the juvenile referee program. Security should be provided.

X. Monitoring of Juvenile Referee Proceedings

It shall be the responsibility of the Family Part Presiding Judge, or other designated judge, and the Family Division Manager or designee to monitor the actions of the juvenile referee periodically to ensure compliance with the program standards. Attendance at the hearings conducted by the juvenile referee or review of the recorded proceedings by the Family Part Presiding Judge or other designated judge, and the Family Division Manager or designee shall provide a means of quality control.

XI. Evaluation

The juvenile referee program shall be evaluated periodically by the Family Part Presiding Judge or other designated judge, the Family Division Manager or designee, and the Administrative Office of the Courts to determine the effectiveness of the program. Confidential information will be maintained by the Family Division of proposed dispositions and orders that are rejected by the court and reasons for that rejection. This information can be used for evaluation of the juvenile referee and for designing and providing training for the juvenile referee.

XII. Statistics

The Family Division Manager shall provide statistics on the numbers of delinquency cases that are disposed of by a juvenile referee. The data shall be reported on a uniform statistical report form approved by the Administrative Office of the Courts.

Note: Adopted by Supreme Court June 7, 1994; Standards VI-C, X, and XI amended November 8, 2000 to be effective immediately; Standard VII amended December 10, 2002 to be effective immediately.