

Video Conferencing and Detention Proceedings

“Inserting a camera and monitor into a judicial proceeding is a sure way to send the wrong message to youth”

- Justice R. Fred Lewis, Florida Supreme Court

Video arraignment procedures—widely accepted and used in adult proceedings—are being adapted for use in juvenile detention proceedings across the country. Currently six states (Kansas, North Carolina, Oklahoma, Oregon, Texas, and Virginia)¹ have statutes and two states (Arizona and Indiana)² have court and/or administrative rules allowing juvenile detention hearings to be conducted using video technology. Given that the latest studies demonstrate the disproportionate use of detention for children of color, and that once detained the chances of further confinement rises dramatically, the use of distance-technology may not be serving the interests of the youth involved or advancing the juvenile justice aim of the least restrictive environment for arrested youth.³

While further study needs to be conducted on this issue, it would appear that the harms inherent in the video-detention proceeding far outweigh any advantages. Arguments of efficiency in reducing time delays and transportation costs, and the elimination of the courtroom spectacle of juveniles in shackles and prison garb, must be countered by concerns of the Sixth Amendment right of confrontation, due process safeguards, and individualized justice. Even more damaging, perhaps, is the danger of mechanizing the process to a point that it restricts the orderly and necessary presentation of viable alternatives to detention.

In Florida, the Supreme Court has recently ordered that juvenile detention proceedings could not be held via video conferencing.⁴ The order ended a 1-1/2 year trial period where video-detention hearings were allowed in a select number of judicial circuits. Recognizing that “robotic justice” denied the trial judge important, non-verbal information upon which to base a decision concerning detention, the Court ruled that future detention hearings “should only be made in person, not by long distance.”⁵

Typically a juvenile is placed in a room equipped with microphones, cameras, and video screens for communication with the similarly-equipped court room some distance away. The child’s attorney is either present in the courtroom away from her client or at the client’s side, separated from the court proceedings and

personnel. What the child can observe—and the attorney with her—is limited by the position and placement of the camera in the courtroom. Face-to-face contact among the various personnel involved in the hearing is severely limited; and depending on the location of the defense attorney, off-the-record and informal conferences are next to impossible with either the court and prosecutor or the client.

Given the technological and physical limitations, it is not surprising that children feel a sense of alienation from the detention process and limited in the control they have over their own cases. One trial court judge has noted that “most juveniles at video first appearances appear almost like zombies.... Conversations via a video screen with a juvenile who is in detention is extremely difficult and problematic.”⁶ Similar remarks and conclusions have been made by various juvenile defenders and children.

Detention reform is an important part of the mission of the National Juvenile Defender Center (NJDC) and its regional affiliates. The overuse and abuse of detention is well documented and, along with the Annie E. Casey Foundation, the NJDC is committed to devising information systems and procedures to avoid unnecessary detention and finding innovative, community-based alternatives for confinement in detention centers. A review of the video-detention procedures and practices in place around the country, however, does not convince us that this approach brings a “new degree of rationality to systems that, juvenile justice experts complain, have lacked that attribute for decades.”⁷

Please contact the National Juvenile Defender Center for more information about video conferencing.

¹ Kansas §38-1632, North Carolina §7B-1906, Oklahoma 100.5 §7303-1.1, Oregon §419C.153, Texas Family Code §54.012, Virginia §16.1-250.

² Arizona Rules of Procedure for the Juvenile Court Part I, Rule 12, Indiana Administrative Rule 14, posted 12/19/1995, for hearings pursuant to IC31-6-4-5(f).

³ Eileen Poe-Yamagata, Michael Jones, *And Justice for Some*, Building Blocks for Youth, pages 9-10, 2000.

⁴ *Amendment to Florida Rule of Juvenile Procedure 8.100(a)*, 2001 WL 252133, Fla., 2001, March 15, 2001.

⁵ *Amendment to Florida Rule of Juvenile Procedure 8.100(a)*, 153 So. 2d 541, 24 Fla. Weekly S196 (1999).

⁶ *Id.*

⁷ Rochelle Stanfield, *Pathways to Juvenile Detention Reform*, Annie E. Casey Foundation, page 9, 2000.