

FAMILY COURT OF THE STATE OF DELAWARE GUN COURT MANUAL



DELAWARE'S FAMILY COURT GUN COURT MANUAL

MISSION STATEMENT

The goal of the Family Court Gun Court is to break the repeating cycle of juvenile gun crime and rehabilitate Delaware's youth as quickly and effectively as possible. Gun Court provides a single judicial forum through which all juvenile gun crime cases are heard in order to dispense uniform justice and reduce judicial backlog.

PROGRAM DESCRIPTION

Delaware's Gun Court is designed to provide a streamlined process to help promote efficient and effective services to juvenile defendants. Gun Court is a division of Family Court, which exists as a result of a Juvenile Accountability Block Grant (JAGB) through the Office of Juvenile Justice and Delinquency Prevention (OJJDP). First, Gun Court provides juveniles charged with gun crimes an exclusive forum through which to resolve their cases quickly, while providing sentencing that includes appropriate treatment, rehabilitative efforts, and close court supervision. Previously, all juveniles with serious gun offenses in Delaware would be transferred to Superior Court. Now, most are retained in Family Court, which allows them to receive immediate services at appropriate juvenile facilities. (There are some crimes that must be sent to Superior Court by statute. A reverse amenability hearing may be held in Superior Court to determine if the defendant will be better served by the Family Court in these circumstances.) Second, Gun Court collects data on all cases before it, which allows the court to be cognizant of trends in juvenile gun crime. It also allows the State to direct its resources more economically and effectively towards prevention and rehabilitation.

By keeping juveniles with the most serious gun charges detained, not only are the streets safer, but these juveniles are also given the opportunity to further their education. Many are able to receive their GED, high school diploma, vocational training and help with their college applications, along with other opportunities to advance their education. Additionally, the emphasis on treatment is crucial to the success of Delaware's Gun Court. A portion of the serious gun offenses in Delaware involve delinquents who are under the influence of alcohol or drugs. Such addictions cloud judgment, which coupled with peer pressure leads to juveniles committing serious offenses without being able to comprehend the magnitude of their decision. If these influences are not dealt with through treatment, juveniles are far more likely to re-offend. With close court supervision and the assistance of treatment programs, juveniles in Gun Court are less likely to return to their dangerous behaviors.

THE GUN COURT PROCESS

The following is a general explanation of a case's progression when Gun Court has jurisdiction.

ARREST:

If a juvenile is arrested during regular Family Court business hours (8:30AM – 4:30PM, Monday –Friday), he or she will appear in front of a Family Court Commissioner. If the juvenile is arrested and charged when the Family Court is not open, he or she will

appear in front of a Magistrate in the Justice of the Peace Court. In either case, the defendant will be placed either in a detention center or on house arrest. If any of the charges involves a firearm, the case will be transferred to Gun Court. Gun Court will also have jurisdiction over the case if the defendant has previously been through Gun Court on a prior gun offense. Once the transfer has occurred the case will be placed on the Gun Court calendar for either case review or a preliminary hearing.

CHARGES:

Whether Family Court or Superior Court has original jurisdiction over a case is decided by statute. Superior Court jurisdiction tends to be for the most violent offenses, which include First and Second-Degree Murder, First-Degree Unlawful Sexual Intercourse, Assault and Kidnapping. First-Degree Robbery can also require the case to go to Superior Court in some circumstances. By statute, if a defendant is 16 or older the case will be transferred to Superior Court if the juvenile has previously been found delinquent of a charge equaling a felony and the current charge is First-Degree Conspiracy, Arson, Burglary, or an attempt of any of those crimes. Finally, an amenability hearing will automatically be held to decide if the juvenile is receptive to the Family Court process if the juvenile is 16 or older and has been charged with Manslaughter, First-Degree Burglary, Arson, Second-Degree Rape, or an attempt of any of these crimes.

Typical Gun Court charges include, but are not limited to: Carrying a Concealed Deadly Weapon; Possession of a Firearm During the Commission of a Felony; Reckless Endangering; Aggravated Menacing; Theft of a Firearm; Possession of a Weapon in a Safe School and Recreation Zone; etc. Also, an offense involving a BB gun will also be placed on the Gun Court calendar. If the case is mandated to go the Superior Court, a preliminary hearing may be held in Gun Court, but the rest of the case will transfer to Superior Court.

PRELIMINARY HEARING:

A preliminary hearing may be held in Family Court, whether or not the defendant is amenable to the Family Court process. Under 10 *Del. C.* §1010(b)¹ and Delaware Family Court Rules of Criminal Procedure, Rule 6C² even if the Superior Court has exclusive

¹ 10 *Del. C.* §1010(b) states: In all cases specified in (a) the Court shall, upon application, hold a preliminary hearing and, if the facts warrant, thereafter refer the child to the Superior Court or to any other court having jurisdiction over the offense for trial as an adult.

² Delaware Family Court Rules of Criminal Procedure, Rule 6C states: (a) When Entitled. A child is entitled to a preliminary hearing when charged with an offense within the original jurisdiction of the Superior Court or has been found non-amenable after a hearing as provided by statute. If the preliminary hearing is waived, the Court shall forthwith hold the child to answer in the Superior Court. If the child charged does not waive the preliminary hearing, the Court shall schedule a preliminary hearing.
(b) Scheduling. Such hearing shall be held within a reasonable time but in any event not later than 10 days following the finding of non-amenable if the child is detained and no later than 20 days if not detained, provided, however, that the preliminary hearing shall not be held if the child is indicted or if any information against the child is filed in Superior Court before the date set for the preliminary hearing. With the consent of the child charged and upon a showing of good cause, taking into account the public interest in the prompt disposition of criminal cases, time limits specified in this paragraph may be extended 1 or more times by a judge of the Family Court. In the absence of such consent by the child charged, time limits may be extended only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice.
(c) Probable Cause Finding. If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the child charged committed it, the Court shall forthwith hold the child to answer in Superior Court. The finding of probable cause may be based upon hearsay evidence in whole or in part. The child

jurisdiction over the matter (such as First-Degree Murder) the preliminary hearing may be held in Family Court. The case may be resolved in Family Court at the preliminary hearing if a plea agreement is reached between the State and defense.

AMENABILITY:

If the Family Court has jurisdiction and the juvenile is deemed to be amenable to the process, then the case will be heard in Gun Court. This applies to cases where the immediate offense involves a weapon, or if the juvenile has previously been in Gun Court for prior charges. At this point the Attorney General's office will look at the defendant's record and decide if they believe this person will be amenable to the Family Court process. If they believe the juvenile will not be amenable, the prosecutor will file to have the case moved to Superior Court. The juvenile's attorney will then decide to either waive the amenability hearing and let the case be transferred, or file a response, at which time an amenability hearing will be scheduled to allow the judge to decide that matter. During this hearing the attorneys for both sides will discuss whether the case should be kept in Family Court or be transferred to Superior Court. The court will look at a variety of factors, including those enumerated in 10 *Del. C.* §1010(c)(1),³ in deciding whether or not the juvenile is amenable.

There are also cases where the Superior Court has exclusive jurisdiction pursuant to 10 *Del. C.* §921,⁴ but the Attorney General's office may believe the Family Court process

charged may cross-examine prosecution witnesses and may introduce evidence in defense. Objections to evidence on the ground that it was acquired by unlawful means are not properly made at the preliminary hearing. Motions to suppress must be made to the trial court.

(d) Discharge of Person Charged. If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the child charged committed it, the Court shall dismiss the proceeding and discharge the child. The discharge of the child charged shall not preclude the State from instituting a subsequent prosecution for the same offense.

(e) Records. After the conclusion of the proceeding, the Clerk of Court shall transmit forthwith to the Prothonotary for the proper county all papers in the proceeding and any bail taken.

³ 10 *Del. C.* §1010(c)(1) states:

In determining whether a child is amenable to the rehabilitative processes of the Court, the Court shall take into consideration, among others, the following factors which are deemed to be nonexclusive:

- a. Whether, in view of the age and other personal characteristics of the child, the people of Delaware may best be protected and the child may best be made a useful member of society by some form of correctional treatment which the Family Court lacks power to assign; or
- b. Whether it is alleged death or serious personal injury was inflicted by the child upon anyone in the course of commission of the offense or in immediate flight there from; or
- c. Whether the child has been convicted of any prior criminal offense; or
- d. Whether the child has previously been subjected to any form of correctional treatment by the Family Court; or
- e. Whether it is alleged a dangerous instrument was used by the child; or
- f. Whether other participants in the same offense are being tried as adult offenders

⁴ 10 *Del. C.* §921 states in relevant part:

The Court shall have exclusive original civil jurisdiction in all proceedings in this State concerning:

(1) Any child found in the State who is alleged to be dependent, neglected, abused or delinquent except as otherwise provided in this chapter;

(2)a. Any child charged in this State with delinquency by having committed any act or violation of any laws of this State or any subdivision thereof, except murder in the first or second degree, rape in the first degree, rape in the second degree, unlawful sexual intercourse in the first degree, assault in the first degree, robbery in the first degree, (where such offense involves the display of what appears to be a deadly weapon or involves the representation by word or conduct that the person was in possession or control of a deadly weapon or involves the infliction of serious physical injury upon any person who was not a participant in the crime, and where the child has previously been adjudicated delinquent of 1 or more offenses which would constitute a felony were the child charged under the laws of this State), kidnapping in the first degree, or any attempt to commit said crimes; any child 16 years of age or older

would better serve the juvenile. In these cases a reverse amenability hearing may be held to see if the case should be transferred to Family Court. If these charges involved a firearm, and the Superior Court has judged the juvenile amenable, the case will be heard in Gun Court

CASE REVIEW THROUGH SENTENCING:

Once Gun Court is the agreed upon venue for the case, a case review will be held in front of the Gun Court Judge. At this point the juvenile will choose to either accept or reject a plea. If the plea is rejected the case will be placed on the Family Court trial calendar, to be heard by a different judge. At the end of the trial, the judge will determine the sentence for the juvenile. This sentence may involve any level of incarceration, including the potential for at home GPS monitoring. The juvenile may be sentenced to placements such as Terry Center, Ferris, Glen Mills or Coastal Harbor.

PLACEMENTS

The decision on where to place a defendant is a collective effort involving the Judge, the prosecutor, the defense attorney, youth rehabilitative services, the family of the juvenile, and support services. Some factors taken into account include:

1. Past Criminal History.
2. If the defendant was already placed somewhere and that placement was unsuccessful.
 - a. This may also require a stricter sentence.
3. The specific goals of the various placement facilities.
4. Whether the defendant suffers from any mental illness / depression.
5. Whether the defendant suffers from any addictions.
6. Whether the defendant has a history of violence.
7. Whether the defendant is on any medication.

Past Placement Locations: The following is a list and brief description of locations the Delaware Family Court Gun Court has placed juveniles. This list is only a sampling of the facilities available.

charged with violation of Title 21, except as provided in paragraph (16) of this section or § 927 of this title; or any other crime over which the General Assembly has granted or may grant jurisdiction to another court.

b. Any child charged in this State with delinquency by having committed, after reaching his or her sixteenth birthday, murder in the second degree, manslaughter, robbery in the second degree, attempted murder (first or second degree), burglary in the first degree or arson in the first degree; provided, however, that such child shall, after his first appearance in the Court, be given a hearing as soon as practicable to determine his amenability to the processes of the Court. The Court shall give immediate notice of such hearing in writing to the Department of Justice and to the child's custodian, near relative, attorney or other interested person, if known, and then the Court shall proceed in accordance with the provisions of § 1010 of this title. The Attorney General or one of his or her deputies shall be present at any such hearing.

Superior Court shall retain jurisdiction for purposes of sentencing and all other post conviction proceedings if any judge or jury shall find the child guilty of a lesser included crime following a trial or plea of guilty in any prosecution for 1 of the crimes specifically defined in this subsection or for any crime where the child has been transferred to the Superior Court by the Family Court pursuant to § 1010 of this title;

Both Boys and Girls

Terry Children's Psychiatric Center: Terry provides short-term residential treatment for children less than 12 years old, short-term day treatment for children less than 13, and crisis services for children up to their 14th birthday whose emotional disturbance prevents them from functioning well in the home and/or community

Services Offered:

- Individual, family, and group therapy
- Counseling with parents
- Special education
- Pharmaco-therapy
- A crisis bed program provides intensive treatment for children who are at serious risk and whose safety cannot be maintained while in the community.

FOR MORE INFORMATION ABOUT TERRY CENTER:

<http://www.delaware211.org/Resource?r=88427>

Stevenson House: The William Marion Stevenson House Detention Center is a lock-secure facility staffed for 55 pre-adjudicated male and female youth under the age of 18 years old. Through the resident's stay, the staff maintains contact with the family to assist in adjusting the youth's behavior towards becoming a better citizen.

Services offered:

- HIV prevention
- Pregnancy prevention
- Aggression resistance
- Drug education
- Certified providers offer medical, dental, and psychological services
- Academic education provided by public education teachers.
 - Credits received in these facilities can be transferred towards a high school diploma or GED

FOR MORE INFORMATION ABOUT STEVENSON:

<http://kids.delaware.gov/yrs/yrs SH/yrs shdc.shtml>

Chamberlain Academy (South Dakota): Chamberlain Academy is a Group Care Center, licensed by the South Dakota Department of Social Services to provide treatment for males and females between the ages of 13 and 18. Chamberlain Academy provides solutions for developing productive lives for youth who may otherwise turn to self-destructing behaviors. At the Chamberlain Academy, treatment programs place primary importance on thinking and behavioral change. Chamberlain Academy focuses on critical thinking, social/life skills, emotional literacy/management, empathy training, vocational training, and career development and education advancement.

Services Offered:

- Mental Health Services, including individual psycho-therapy as needed, evaluations, and medication monitoring.
- Substance Abuse Program
- Accredited on-campus educational programming including GED and graduation capabilities, Individual Education Planning (IEP), vocational education which includes pre- and post- employment skill development
- Life / Social Skills / Emotions Management including nutrition, wellness, sexuality, interpersonal skills, money management, community resources, housing, cultural diversity and parenting
- Community service projects and restitution opportunities

FOR MORE INFORMATION ABOUT CHAMBERLAIN:

http://youthservices.com/index.php?option=com_content&task=view&id=17&Itemid=54

The Impact Project (Pennsylvania): The Impact Project’s Specialized Foster Care Program is a community-based home for youth who are unable to reside with their natural families. Impact specializes in working with youths aged 10-20, but occasionally makes exceptions for younger children. All youth are assigned a case manager and a Liaison to help provide individualized care.

Services Offered:

- Case Management and Liaison Guidance
- Therapeutic Foster Care
- Referrals for drugs and alcohol counseling
- Referrals for medical assistance
- Education Services

FOR MORE INFORMATION ABOUT IMPACT: <http://theimpactprojectinc.net/>

The Bridge (Pennsylvania): The Bridge is a nonprofit behavioral health treatment and youth opportunity program for adolescents and their families seeking to overcome substance abuse, mental health issues, truancy and other challenges.

Services Offered:

- Individual, Group, and Family Therapy
- Health & Psychiatric Services
- Anger management / conflict resolution
- Animal assisted therapy
- After-case case management
- Family psych-education
- Outpatient counseling
- Educational and Skill Building Classes
- Life Skill Classes

FOR MORE INFORMATION ABOUT THE BRIDGE:

<http://www.thebridgephiladelphia.org/site/>

Boys Only

Ferris School for Boys: The Ferris School for Boys is a state-of-the-art juvenile secure care facility for 80 adjudicated delinquent males who are committed by Family or Superior Court. It was designed to provide improved programs and services to create a total learning environment for youth. The average length of stay for juveniles is six months, and is followed by a six-week transition program at Mowlds Cottage. The youth committed to Ferris School are identified as serious and/or chronic repeat offenders who pose a risk to the public and require intensive rehabilitative programming and treatment for substance abuse, emotional problems, and violence. Throughout the students' stay, the staff maintains contact with the family to assist in adjusting the youth's behavior towards becoming a better citizen. Students are required to attend educational classes, which are taught by certified teachers. Credits can be transferred to public schools and the students can earn their diploma or GED. Since 2002, 100 percent of the students who took the GED exam passed. The Ferris School Total Learning Environment integrates all elements of rehabilitation: school programs, normative behavioral programs, aggression replacement training (ART), and therapeutic clinical programs, to provide an individualized, comprehensive positive learning experience for each youth. Their day is structured from the time they are awakened to bedtime.

Services Offered:

- Drug and alcohol education
- Conflict resolution
- Anger management
- Sex education
- HIV Prevention

FOR MORE INFORMATION ABOUT FERRIS-

http://kids.delaware.gov/yrs/yrs_ferris/yrs_ferris.shtml

Snowden Cottage: Snowden Cottage is a Level IV staff secured residential treatment program designed to address the needs of adjudicated male adolescents and assist them in making a successful transition to the community. There is a 90-day minimum stay at Snowden and they have a capacity of 15 youths.

Services offered:

- Transition/aftercare Services
- Rewards-Based Behavior Management System (Cognitive Behavior Therapy)
- Individual and Family Counseling
- Daily academic education by certified instructors
- Special education services
- GED Preparation
- Mental Health Services provided by a certified psychologist and psychiatrist
- Psycho- Educational Group Curriculum
- Social Skills Development

- Medical, dental and eye care

FOR MORE INFORMATION ABOUT SNOWDEN-

http://kids.delaware.gov/yrs/yrs_gracesnowden/yrs_GraceWebPage.shtml

The Glen Mills School: The Glen Mills School is a Balanced and Restorative Justice (BARJ) compliant, residential program utilizing a Sociological model, designed to effectuate long-term behavioral change and enhance life skills development.

Services Offered:

- Room and board
- Clothing
- Behavior management
- Individual and group counseling
- Academic and vocational programming
- Medical and dental services
- Athletic and recreational opportunities

FOR MORE INFORMATION ABOUT GLEN MILLS:

<http://www.glenmillsschool.org>

Coastal Harbor: Coastal Harbor is a residential treatment facility that serves children and adolescents from more than 15 states. The program focuses on a variety of issues including: aggression, self-harming, running away, suicidal thoughts, severe mood swings, trauma, grief/loss, anger management, family relationship issues, and substance abuse. They also have specialized programs for patients who have developmental delays or sexual aggression toward others. Education is essential for young people, and Coastal Harbor operates a year-round school on campus for its residence. In addition, residents have access to a swimming pool, basketball court, tennis court and gymnasium. Residents who are able to demonstrate safe behaviors toward themselves and others will be eligible for community outings and home passes as appropriate.

Services Offered:

- Aggressive/impulsive behavior therapy
- Depressive symptoms/trauma therapy
- Education
- Family therapy sessions
- Medication management
- Psychotic symptoms treatment
- Self-harming/mutilation therapy

FOR MORE INFORMATION ABOUT COASTAL HARBOR:

<http://coastalharbor.com/>

Project Stay-Free: Project Stay-Free is an intensive community based supervision program for pre and post educated youth. The program serves as an alternative to incarceration and residential placement. For over eleven years, Project Stay-Free has worked with youth between the ages of eight and eighteen years who are in the custody or under the supervision of the Division of Youth Rehabilitative Services.

All youth reside in New Castle County and all referrals come through Family Court, the Detention Center or the Placement Authorization Committee. Through the program, youth are given an opportunity to progress toward meeting court ordered conditions, probation or aftercare requirements in the least restrictive manner, remaining in the community. Parents have an opportunity to participate in all aspects of the youth's involvement to meet program requirements.

Services Offered:

- Services Plan Development- mapping the way for successful return to family, school, and community.
- Individual Counseling- helping youth to help themselves
- Family Counseling- helping families cope.
- Adventure Based Therapy- new experiences help develops new attitudes.
- Community Service Placements- helping youth to help others.
- Monitoring Restitution Payments- assisting youth in taking responsibility.
- Substance Abuse and Mental Health Evaluations- aiding youth and families in times of need.

FOR MORE INFORMATION ABOUT PROJECT STAY-FREE:

<http://projectstayfree.org/>

Girls Only

Grace Cottage: Grace Cottage is a Level IV staff secured residential treatment program designed to address the needs of adjudicated female adolescents and assist them in making a successful transition to the community. There is a 90-day minimum stay at Grace and they have a capacity of 15 youths.

Services offered:

- Transition / Aftercare Services
- Rewards-Based Behavior Management System (Cognitive Behavior Therapy)
- Individual and Family Counseling
- Daily academic education by certified instructors
- Special education services
- GED Preparation
- Mental Health services provided by a certified psychologist and psychiatrist
- Gender-Responsive Life Skills Curriculum
- Social Skills Development
- Medical, dental and eye care

FOR MORE INFORMATION ABOUT GRACE:

http://kids.delaware.gov/yrs/yrs_gracesnowden/yrs_Grace.shtml

Southwest Indiana Regional Youth Village: Southwest Indiana Regional Youth Village is a member of ResCare Residential Services. They provide services to

individuals of all ages who have cognitive, intellectual, or developmental disabilities. Their mission is to provide quality supports to enhance lives and help individuals grown and develop.

FOR MORE INFORMATION ABOUT THE VILLAGE:

Services offered:

- Independent Living Strategies
- Social and Academic Skills
- Behavioral and Emotional Therapy

<http://www.rescare.com/displaylocation.php?BLID=2&C=Bruceville&D=462>

SENTENCE REVIEW:

A periodic sentence review will be scheduled after the placement of the juvenile is decided. Depending on need that case review will be in person or on the phone. The Department of Services for Children, Youth, and their Families will be responsible for conducting probation reviews and status updates on the juvenile. If the juvenile successfully completes his Gun Court obligations the juvenile will be successfully discharged from Gun Court. However, if the juvenile acquires new charges, his new charges will also be handled within Gun Court, regardless of whether or not the new charges involved a firearm.

RESULTS:

Every single day in the United States, guns cause the death of 20 children and young adults. These deaths constitute over 41 percent of all firearm deaths and non-fatal injuries.⁵ With Gun Court, Delaware is doing its part to reduce these numbers.

One year after its inception, Delaware's Gun Court decreased the number of juvenile gun cases heard in Superior Court by 44 percent. This has drastically reduced case disposition time, as nearly 90 percent of cases plead. It has also reduced expenses: gun crime defendants occupied 61 percent of the space at Delaware's juvenile detention centers in 2008. In 2009 Gun Court reduces this to 17 percent.

Tracking the progress of Gun Court over the past two years has shown a low level of recidivism amongst juveniles who go through Gun Court. As of January 2012, out of the 230 juveniles who had come through Gun Court, 35 (15 percent) had new gun charges

The model for Gun Court is premised on the well-proven facts that keeping kids off the streets and out of bad neighborhoods, where they are more susceptible to peer and environmental pressures, creates a safer community. Gun Court also encourages the rehabilitation aspect of the juvenile justice system by emphasizing education and providing counseling and appropriate treatment for juveniles on an individualized basis. This process is intended to handle the underlying root causes of the delinquent behavior and thereby reduce the recidivism rate.

⁵ "Gun Violence Statistics," Legal Community Against Violence http://www.lcav.org/statistics-polling/gun_violence_statistics.asp#9.

GENERAL OVERVIEW OF PLAYERS WITHIN GUN COURT

In order to provide consistency and efficiency, the Judge, Deputy Attorney General, and the Public Defender work on all Gun Court cases in all three counties in Delaware.

Judge: The current judge in Family Court that handles all Gun Court matters is Chief Judge Chandlee Johnson Kuhn.

FOR MORE INFORMATION ABOUT FAMILY COURT:

<http://courts.delaware.gov/family/>

Prosecution: Deputy Attorney Generals provide legal advice, counsel, and services while enforcing the law. The current prosecutor is Deputy Attorney General Mark Bunitsky.

FOR MORE INFORMATION ABOUT THE ATTORNEY GENERAL'S OFFICE:

<http://attorneygeneral.delaware.gov/>

Defense: In the United States, all persons charged with crimes, even those who cannot pay, have the right to lawyer. If a juvenile has retained private defense counsel, such attorney will represent the juvenile through the Gun Court process. If a juvenile cannot afford an attorney, the Office of the Public Defender (PDO) will represent the juvenile in his or her Gun Court case. The only exception to this would be in cases where the PDO determines that a conflict of interest exists in representation of the juvenile. In these circumstances, the PDO will request the appointment of conflict counsel by the Court. Once conflict counsel is appointed, the conflict attorney will represent the juvenile in the Gun Court process. The current Assistant Public Defender in Gun Court is Natalie Haskins.

FOR MORE INFORMATION ABOUT THE PDO:

<http://publicdefender.delaware.gov/services/publicservices.shtml>

Child Services: The Division of Youth Rehabilitative Services (DYRS) provides rehabilitative services to juveniles who have been adjudicated delinquent. DYRS serves approximately 5,000 youth per year, ranging from probation to secure care incarceration. Five secure care facilities provide secure detention for youths and 24-hour custodial care and treatment for incarcerated, adjudicated youths. Secure care also provides appropriate education, treatment, counseling, recreation, vocational training, medical care, and family focused case management for youths in secure residential facilities.

In addition, DYRS includes Community Services. The Community Services unit provides probation and aftercare services to approximately 3,000 youth per year, in addition to overseeing 47 contracts with providers offering residential and nonresidential programs and services. Community Services operates to ensure that the risks to the public are minimized, youths are served in the least restrictive environment appropriate for their needs, and the families of the youth are strengthened through Community Services intervention. Jennifer Skinner serves as the Master Family Service Specialist with the Delaware Department of Services for Children, Youth, and Their Families and oversees the probation wing of Gun Court.

FOR MORE INFORMATION ABOUT DYRS:

http://kids.delaware.gov/yrs/yrs_MainPage/yrs.shtml

Support Services: The Delaware Office of the Public Defender (PDO) established the nation's first Psycho-Forensic Unit of any public defender office in 1980. The unit consists of Masters-level Psycho-Forensic Evaluators (PFEs) who assist the attorneys in their goal of providing the best possible legal representation for the client. The PFEs accomplish this task by obtaining relevant background information on a client's medical, mental-health, and substance-abuse history; connecting the client with treatment services, developing client-specific plans for conditional pre-trial release, alternatives to incarceration and mitigation at sentencing; and assisting attorneys in the hiring, communication, and representation of expert witnesses to provide mental-health defenses and/or mitigating testimony. The current Psycho-Forensic Evaluator in Gun Court is Andrea Kline.

FOR MORE INFORMATION ABOUT PFEs:

<http://publicdefender.delaware.gov/services/supportservices.shtml>

SPECIFIC RESPONSIBILITIES FOR GUN COURT PLAYERS

Judge: The general Gun Court protocol of the judge is as follows:

1. Once a juvenile is arrested on a charge involving a firearm they are presented to a Commissioner in Family Court if during normal Court hours or to the Justice of the Peace Court if after hours. The juvenile is either detained with bail or sent home. Depending on the charge and their age they will be sent to either Gun Court or Superior Court.

a. Any of the following charges require a juvenile be sent to Superior Court:

i. 1st or 2nd Degree Murder

ii. 1st or 2nd Degree Rape

iii. 1st Degree Unlawful Sexual Intercourse

iv. 1st Degree Assault

v. 1st Degree Robbery

1. Only if the child was previously adjudicated delinquent of 1 or more offenses which would constitute a felony AND

2. The charge involves a deadly weapon OR involves the threat of possessing a deadly weapon OR involves the infliction of serious physical injury on the victim (need 1 of these)

vi. 1st Degree Kidnapping

vii. Any Attempt to commit these above listed crimes.

b. Any defendant 16 years or older who has previously been adjudicated guilty of any offense which would constitute a felony AND commits any of the following crimes will be sent to Superior Court.

i. 1st Degree Conspiracy

ii. 3rd Degree Rape

iii. 1st Degree Arson

iv. 1st Degree Burglary

v. Any attempt to commit these crimes

c. An amenability hearing will be held to decide if the juvenile should go to Superior Court for any of the following charges if the defendant is 16 or older:

i. Manslaughter

ii. 2nd Degree Robbery

iii. 1st Degree Burglary

iv. 1st Degree Arson

2. Once the Family Court staff filters each case to Gun Court, the Judge reviews each file.
 - a. The Gun Court calendar allows Family Court to provide additional attention and resources to the problem of youth gun violence.
3. The Judge presides over amenability hearings, arraignments, preliminary hearings, pleas, sentencing, case reviews, or bail reviews. (Trials are not included on the Gun Court calendar)
4. The Judge can enter a disposition which could include a waiver of jurisdiction to Superior Court, a finding that a juvenile is not amenable to Family Court, a plea bargain, setting a date for trial, or a continuance to get more information. Ultimately, the defendant can be sent home or be placed into a facility.
 - a. The Judge looks at factors such as:
 - i. The age of the defendant
 - ii. The defendant's prior record
 - iii. The recommendations from the prosecutor, defense attorney, YRS or support services
 - iv. The defendant's home life
 - v. The defendant's mental health issues
 - vi. Whether or not the defendant is or was in foster care.
 - b. The Judge also makes sure to listen to the concerns of the defendant.
 - c. The analysis is mostly objective but there is a subjective element as well. The Judge has discretion in entering a sentence unless there is a minimum mandatory.
5. After sentencing, there can be a review hearing or a violation of probation hearing, all of which will happen in Gun Court.
 - a. If the defendant is charged with any subsequent offenses, they may also end up in Gun Court, whether or not those offenses involve a weapon.
6. If the case remains in Gun Court, but no plea is agreed to, the case will go to trial in front of a different Family Court Judge.

Prosecution: The general Gun Court protocol of the prosecutor is as follows:

1. DELJIS is used to identify Gun Court cases at the Justice of the Peace Court level.
2. The prosecutor decides whether to take the case to Gun Court or Superior Court.
 - a. The prosecutor has the most leverage in this decision.
 - b. The statute dictates which charges should go to which court, but the prosecutor does have some discretion. The prosecutor also looks at factors such as:
 - i. The age of the defendant.
 - ii. The defendant's prior record.
 - iii. The seriousness of the offense.
 - iv. Any potential benefit of keeping the defendant in Gun Court.
 - v. How well the defendant has done in prior placements.
3. Before the initial hearings, the calendar and files are reviewed.

- a. As much information as possible is accumulated. The prosecutor looks at things such as the charges, police reports, and the charging documents.
4. At the initial hearing, the prosecutor talks to the defense attorney, YRS, and support services to gain a different perspective on the case.
 - a. There can be mitigating factors that the defense attorney, YRS, and support services are aware of that are not in the file initially available to the prosecutor.
 - b. The prosecutor wants to gain this perspective because the goal is not to ruin the defendant's life if the totality of the circumstances leads to the conclusion that public safety can be maintained without incarceration.
 - c. The prosecutor also takes into account the Gun Court goal of administering swift and certain justice, reducing costs on the State of Delaware, and keeping a juvenile out of adult prison.
 - d. This meeting might make the prosecutor more receptive to resolving the case by making negotiations, accepting the plea, or dropping the charges.
5. The Gun Court prosecutor is not permitted to stay on the case if it is transferred to the Superior Court or if it goes to trial.
6. At the sentence review, the prosecutor will primarily rely upon the recommendations of YRS and support services because they would have had more interaction with the defendant at that point.

Defense: The general Gun Court protocol of defense counsel is as follows:

1. Intake staff at the Public Defender's Office gets a roster of incarcerated juveniles. If the juvenile is going to stay in Gun Court, the public defender will represent the individual, unless there is a conflict (co-defendant involved has conflict, adult involved has conflict, etc...) or the juvenile has private counsel.
 - a. With certain charges, the case can be sent to Superior Court. If so, a preliminary hearing is held.
 - b. If the case will not be sent to Superior Court, a case review is scheduled.
 - c. The public defender may represent the individual in Superior Court or through trial in Gun Court if that is his/her preference.
2. When a defendant is on the Gun Court calendar, defense counsel will meet with the individual before Gun Court either in person or through the phone.
 - a. Defense counsel will also meet with the family of the defendant separately.
 - b. The defense team will work review legal issues, engage in case preparation and investigation, determine what mitigating evidence exists, determine treatment and rehabilitative needs, negotiate with the prosecution as to resolution of the case, and explore and advocate for sentencing alternatives.
 - c. If defense counsel requires more information, they can attempt to waive the 10-day rule for a preliminary hearing in an attempt to keep the defendant in Gun Court.
3. The goal of defense counsel is to keep the case in Family Court and out of Superior Court.
 - a. Defense counsel must be sure to listen to the wishes of the defendant in terms of what court the defendant wants to go to. Defense counsel should

provide guidance concerning their opinion of the case based on their knowledge of the facts and the law.

- b. The case can always be sent back down to Family Court from Superior Court.
4. With the information learned from the file, meetings with the defendant and meetings with YRS and support services, defense counsel will make the prosecutor aware of any mitigating factors during case review in an attempt to seek a lesser penalty.
5. If a case is not resolved on the Gun Court calendar, the case will either be transferred to the Superior Court if that is the appropriate forum for the case, or the case will be set for trial in the Family Court before another judicial officer.
 - a. In either of these circumstances, defense counsel will continue to represent the juvenile through disposition and any appellate phases of the case.
 - b. If the defendant is sentenced following trial, they generally do not go back to Gun Court unless there is a plea.
6. Before sentencing, defense counsel and the PFE, if there is one, will discuss sentencing recommendations with the prosecutor and YRS when determining case resolution.
7. The defendant can be placed in a facility or put on probation.
8. Defense counsel and the PFE continue to work on these cases post-disposition. Defense counsel, YRS, support services, defendant, or the prosecutor can request sentence reviews during the sentence or following commitment or probation to follow the progress of the juvenile.
 - a. Defense counsel can file a motion in an attempt to get credit for time served or request a modification of the sentence based on the progress of the defendant.
9. Defense counsel and the PFE will continue to track their client's progress post disposition and offer assistance, if necessary, to the juvenile and their family, particularly with the juvenile's re-entry into the community.

YRS: The general Gun Court protocol of the probation officer with DSCYF is as follows:

1. The case manager sends the probation officer the Gun Court calendar for a certain week, usually a week in advance.
2. Before the first hearing in Gun Court, the probation officer tries to reach out to the defendants who are scheduled on the Gun Court calendar and explain the role of the probation officer.
 - a. The probation officer will either call the defendant or meet them in court.
 - b. The probation officer will explain their role and try to gather any background information from the defendant such as school records, behavior at home, substance abuse, mental health, etc...
 - c. If the defendant is detained, the probation officer can have a discussion with the family before Gun Court about visitation and contact with the defendant. The probation officer can also meet with the family and the defendant at the same time during Gun Court.
3. The probation officer will try to reach out to any pre-trial programs the defendant may have been ordered to visit through the Justice of the Peace Court or Gun Court arraignment.

- a. The probation officer will try to find out if the defendant has been compliant with the pre-trial program.
4. The role of the probation officer is to plan for the defendant. The probation officer will look at the current charge(s) to see if there is a minimum mandatory sentence.
 - a. If there is not a mandatory sentence, the probation officer will look to any prior history, and any other mitigating factors. Based on an analysis of these factors, the probation officer will submit recommendations to the court.
5. Once at Gun Court, if the probation officer has not done so earlier, they will meet with the family and the defendant to explain the role of the probation officer.
 - a. At Gun Court, the probation officer assists the judge in determining where to place the defendant, if possible.
 - b. When making a recommendation on where to place the defendant, if only Youth Rehabilitative Services is involved with the defendant, the probation officer can make the recommendation. If other divisions are involved, the probation officer will coordinate with the Division of Family Services or the Division of Prevention and Behavioral Health Services.
6. Once client is released into community, the probation officer becomes their primary interaction with Gun Court. Upon release from a placement, the juvenile will meet with their probation officer in his or her office.
 - a. At this meeting they will discuss what will be expected of the client, and all paperwork will be completed. The client may also be fitted with an electronic monitoring device at this point.
7. If a Gun Court juvenile refuses to follow the probation officers program the officer may choose to violate the juvenile.
 - a. If the violation is without a Capias, the client will be scheduled for a court date in front of the Gun Court judge.
 - b. If there is a violation with a Capias, the juvenile will be added to the apprehension list and the Serious Juvenile Offenders unit will be tasked to apprehend the individual. If this is the case, they will be given a bail. If they cannot make bail, they will be detained until the VOP hearing.
8. The Gun Court probation officer is required to appear for any subsequent court dates the juvenile may have. At each hearing the probation officer must provide a Court Recommendation which explains the individuals progress, and any issues which may have arisen.

Support Services: The general Gun Court protocol of the Psycho-Forensic Evaluator (PFE) with the Office of the Public Defender is as follows:

1. Once the Office of the Public Defender accepts a defendant in Gun Court, and prior to case review or a preliminary hearing, the PFE and Assistant Public Defender receive the case.
2. The PFE then interviews the defendant in a clinical interview/ bio-psychosocial format.
 - a. The defendant's parents/ guardians are also contacted for interviews at this stage. The parents / guardians are asked about the family background and psycho-social issues, such as mental health, substance abuse, education. This is not as thorough as a client clinical interview.

- b. As part of case preparation, the defense team may conduct interviews with collateral sources, such as family members, treatment providers, school personnel, and probation officers.
 - c. During records reviews, the PFE looks for mitigating factors. These include:
 - i. Mental health diagnosis/problems
 - ii. Undocumented /suspected mental health problems
 - iii. Previous traumas
 - iv. Family dysfunction
 - v. Athletics
 - vi. Academics
 - vii. Community involvement
 - viii. Spiritual/religious involvement
 - ix. Employment
 - d. The PFE generally tries to get a picture of the defendant's lifestyle, household, community support, and other resources available to the defendant.
 3. The PFE then reviews Youth Rehabilitative Services / Attorney General sentencing recommendations and then consults with the Assistant Public Defender concerning the viability / appropriateness of the sentencing recommendations. If there are any a special treatment needs for the defendant, such as mental health, medical or substance abuse, the Psycho-Forensic Evaluator will advocate for them.
 4. Occasionally, additional resources may need to be gathered for a defendant on a case-by-case basis. These resources include housing needs, family needs, and educational needs. Essentially these resources include anything that needs to be in place during sentencing / probation to give the defendant the best chance to be successful.
 5. During and following the placement phase, the PFE will attempt to maintain contact with clients via treatment updates from probation officers, placements, direct phone contact, or family contact.

Contacts for Gun Court:

Judge: Chief Judge Chandlee Johnson Kuhn

Deputy Attorney General: Mark Bunitsky

Assistant Public Defender: Natalie Haskins

Director of Special Court Services: Andrea Mills

Psycho-Forensic Evaluator with the Delaware Office of the Public Defender:
Andrea Kline

Master Family Service Specialist (YRS Probation Officer) with the Delaware Department of Services for Children, Youth, and Their Families: Jennifer Skinner

APPENDIX A: Jurisdiction

Statute	Type of Jurisdiction	Type(s) of Crime	Exceptions	Superior Court Jurisdiction
10 Del. C. § 921(2)a	Exclusive original civil	Child charged as delinquent	Murder in the first or second degree, rape in the first degree, rape in the second degree, unlawful sexual intercourse in the first degree, assault in the first degree, robbery in the first degree, (where such offense involves the display of what appears to be a deadly weapon or involves the representation by word or conduct that the person was in possession or control of a deadly weapon or involves the infliction of serious physical injury upon any person who was not a participant in the crime, and where the child has previously been adjudicated delinquent of 1 or more offenses which would constitute a felony were the child charged under the laws of Delaware), kidnapping in the first degree, or any attempt to commit said crimes	Superior Court has jurisdiction for the enumerated exceptions.
10 Del. C. § 921(2)b	Exclusive original civil	Child charged as delinquent by having committed, after reaching his or her 16th birthday, murder in the second degree, manslaughter, robbery in the second degree, attempted murder (first or second degree), burglary in the first degree or arson in the first degree	After the child's first appearance in Family Court, they will be given a hearing as soon as practicable to determine amenability to the processes of the Family Court	Superior Court shall retain jurisdiction for purposes of sentencing and all other post conviction proceedings

10 Del. C. § 921(16)	Exclusive original civil			Notwithstanding any provision of Title 10 to the contrary, charges of delinquency based upon an alleged violation of any provision of Title 11, 16, or 21 of the Delaware Code which would otherwise be within the original civil jurisdiction of Family Court shall instead be within the original criminal jurisdiction of Superior Court if said charges may be joined properly with a felony pending against the same child in Superior Court, as determined pursuant to the relevant rules of the Superior Court
10 Del. C. § 928(a)	Extended jurisdiction - Juvenile delinquency	Prior to trial upon petition of the Attorney General, the State may seek extended jurisdiction of the Family Court over a juvenile up to age 21		

APPENDIX B: Relevant Statutes - Minimum Mandatory Sentences

Minimum Mandatory Sentence	Statute	Crime
6 months	10 Del. C. §1009(e)(1)	First offense: A child has been adjudicated delinquent by Family Court of at least 1 offense which would constitute a felony were the child charged as an adult under the laws of Delaware
		Second offense: If within 12 months after the first offense the child commits at least one offense which would constitute a felony were the child charged as an adult under the laws of Delaware, and thereafter is adjudged delinquent of such offense(s), the child shall receive a mandatory minimum sentence
12 months	10 Del. C. §1009(k)	A child who has been adjudicated delinquent by Family Court of 1 or more offenses which would constitute either possession of a firearm during the commission of a felony or robbery first degree (where such offense involves the display of what appears to be a deadly weapon or involves the representation by word or conduct that the person was in possession or control of a deadly weapon or involves the infliction of serious physical injury upon any person who was not a participant in the crime) were the child charged as an adult under the laws of Delaware shall receive a mandatory minimum sentence
	11 Del. C. §1448(e)	A juvenile who is prohibited from knowingly possessing, purchasing, owning, or controlling a firearm shall receive a minimum sentence of: (a) 1 year at Level V, if the person has previously been convicted of a violent felony; (b) 3 years at Level V, if the person does so within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or (c) 5 years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony
		A juvenile who is prohibited because of a conviction for a violent felony and who while in possession or control of a firearm negligently causes serious physical injury to or the death of another person through the use of such firearm, shall be guilty of a class B felony and shall receive a minimum sentence of: (a) 4 years at Level V; or (b) 6 years at Level V, if the person causes such injury or death within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or (c) 10 years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony
	11 Del. C. §1448(f)	Upon conviction, any person prohibited from purchasing, owning, possession, or controlling a handgun and who is 14 years of age or older shall, for a first offense, receive a minimum sentence of 6 months of Level V incarceration, and shall receive a minimum sentence of 1 year of Level V incarceration for a second and subsequent offense