

The Role of the Juvenile Court Judge Regarding the Education of Children In Juvenile Court

The juvenile court judge has a unique role in the justice system. Nowhere is this role more important than in the oversight of children’s educational needs.¹ And nowhere did the legislature promulgate more specific details of responsibilities judges have to children under the court’s jurisdiction.

This oversight role has become more difficult by the COVID pandemic over the past few years and its devastating impact on all children’s education.² Studies show that students who were already struggling fell further behind in their education, and that Black and Latino students experienced greater declines in test scores than their peers.³

Pursuant to California law, whether the child resides in home, in foster care, or other out-of-home placement, the judge must monitor the child’s educational progress.⁴ The Rules of Court task the judge with an oversight responsibility over the social service and probation agencies “to ensure that a child’s educational rights are investigated, reported, and monitored.”⁵ Further, the judge must take steps to ensure that juveniles with special educational needs receive the attention and services they are entitled to under federal and state laws.⁶

There is much more. The presiding juvenile court judge should develop training programs for all participants in the juvenile court system regarding “all issues relating to special education rights and responsibilities, including the right of each child with exceptional needs to receive a free, appropriate public education and the right of each child with educational disabilities to receive accommodations.”⁷



The juvenile court judge does not have the time or expertise to monitor the educational needs of children before the court. However, the judge can take steps to ensure that others do so such as:

- a) Work with probation and social services so that they ensure that each child’s

educational rights are investigated, reported, and monitored.⁸

- b) Require that court reports, case plans, assessments, and permanency plans address a child’s educational entitlements and how those entitlements are being satisfied.⁹
- c) Ensure that court appointed attorneys are adequately trained concerning all issues relating to special education rights and responsibilities.¹⁰

Given all the duties of the juvenile court judge has, how can the judge give the attention to the educational needs of children before the court? The answer is judicial leadership. The judge must inform the participants in the juvenile court of the importance of educational issues and the role of each participant to address these issues in their work. In meetings with attorneys, social service and probation leaders, the CASA program, and the teachers and administrators in the juvenile court schools, the judge can let them know their role in identifying the educational needs of children before the court and what their responsibilities are towards each child.

Should others report to the judge that services are not available for a particular child, the judge can order services for that child and enforce and review the delivery of those services.¹¹ After all, the juvenile court judge is directed to “improve system performance in a vigorous and ongoing manner.”¹²



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Once one starts down these counterfactual roads, there is no end to them. One can imagine Kennedy himself bemusedly reacting to what followed. It’s surprising to realize that Ronald Reagan was six years older than John F. Kennedy.

But JFK never got to see what his life and career had wrought.

His loss lives with us still, not only in the law. Sixty years have given us enough time to “come to terms with John F. Kennedy,” as a recent monograph suggests we do. Professor Stephen F. Knott of the U.S. Naval War College ends his book with this:

President Kennedy challenged the American people, sometimes belatedly, asking them to deliver on the nation’s promise. He appealed to their “better angels,” urging them to devote themselves to something higher.... Like Thomas Jefferson, he fell far short in his own personal conduct of living up to the best, but like Jefferson, his aspirations for the nation point the way for all of us. And for that reason alone, his place in the American mind should be secured.¹

The president’s aspirations were not only for peace and excellence. They were for the law, too. 🗣️

Endnotes

- 1 Stephen F. Knott, *Coming to Terms with John F. Kennedy* (University Press of Kansas, 2022).
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Educational issues may be one of the reasons why a child is before the court. By addressing educational needs, the court will be providing a critical service for the child’s future. 🗣️

Endnotes

- 1 2023 California Rules of Court, Standard 5.40, (h) Role of the Juvenile Court and Advisory Committee Comment
- 2 Schwartz, S., “COVID Hurt Student Learning: Key Findings From a Year of Research,” *EducationWeek*, November 30, 2022; Baumgaertner, E, “Students Lost One-Third of a School Year to Pandemic, Study Finds, *The New York Times*, January 30, 2023.
- 3 ID.
- 4 2023 California Rules of Court, Standard 5.40 (g) and (h).
- 5 ID.
- 6 2023 California Rules of Court, Standard 5.40(d).
- 7 ID.
- 8 CRC 5.40(h)(2)
- 9 CRC 5.40(h)(3)
- 10 CRC 5.40 (d)(2)
- 11 CRC 5.40(e)(11)
- 12 Welfare and Institutions Code §202.

The dissenting opinion felt the majority erred in concluding that only part of defendant’s sentence was vacated, quoting language from *People v. Walker* (2021) 67 Cal.App.5th 198, 198, that “a criminal sentence is, like an atom, indivisible.” Defendant was no longer “sentenced” once his sentence was recalled, and so his new sentence needed to be imposed under the current version of the Three Strikes Law.

Furthermore, in the dissent’s view, Senate Bill 483 did not authorize or prohibit anything authorized by the Three Strikes Reform Act, and it therefore was constitutional. Section 1 of Senate Bill 483 expressly states that the Legislature’s intent in enacting section 1172.75 was “to ensure equal justice and address systemic racial bias in sentencing.” The Three Strikes Reform Act was entirely consistent with those goals.

Does it matter that, at the time of defendant’s resentencing hearing, the finding that he posed an unreasonable risk of danger to public safety had been made nearly a decade ago? The dissenting opinion believed so, but the majority was unmoved.

There is one point on which the majority and dissent would presumably agree: sentencing reforms can have complicated relationships to judgments that have been final for years. Questions of finality and retroactivity can get tricky. And determining the boundaries of a law’s retroactive application “can be a difficult, divisive, and time-consuming one for courts, which have to discern intent from sometimes opaque sources.” (*People v. Prudholme* (2023) 14 Cal.5th 961, 979.) However, that task, and its implications in a particular set of circumstances, is one that courts are unlikely to avoid. 🗣️

Notable Judges

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Justice Tobriner retired from the court in January of 1982, and was replaced by Cruz Reynoso.

The Justice died only three months later, at age 78. He left behind a legacy not only of friendliness and mentorship (Jerry Brown, Laurence Tribe, and Richard Mosk were all Tobriner law clerks), but also of a lasting contribution to the law of California. Tobriner’s ability to use judicial philosophy to arrive at lasting and forward-looking decisions has stayed with us – as the short list of cases above proves.

Justice Grodin begins his piece on Tobriner with an apothegm from *Learned Hand*: “And what is wisdom ... I know it when I see it....”

We saw it in Mathew Tobriner. 🗣️

Endnotes

- 1 See Grodin, “Justice Tobriner: Portrait of the Judge as an Artist,” 29 *Hastings Law Journal* 7 (1977).