**The Serious Youthful Offender**

**and the Department of Youth Services**

A youth can be designated a serious youthful offender (SYO) by the juvenile court when required by statute or upon initiation by the county prosecutor through the indictment process or by preliminary hearing in order to establish probable cause. R.C. § 2152.13.

Once a youth is adjudicated delinquent, the disposition can either be as a Mandatory SYO or a Discretionary SYO. As one would suspect, the Mandatory SYO designation is typically reserved for older youth who commit higher level felonies, while the Discretionary SYO designation is for those younger youth who commit lower level felonies. R.C. § 2152.11.

Once the youth has been adjudicated delinquent and has been given the relevant SYO designation, he is committed to the custody of the Department of Youth Services (DYS) to serve his juvenile sentence. During this time, if the youth is at least fourteen years of age and commits an act that is in violation of the rules of the institution, that could be charged as a felony or a first degree misdemeanor offense if committed by an adult, or is engaged in conduct that creates a substantial risk to the safety or security of the institution, the community or the victim, the director of DYS may request the prosecuting attorney of the SYO committing county to file a motion to invoke the adult portion of the dispositional sentence. R.C. § 2152.14.

DYS takes the issue of requesting the invocation of the adult portion of the dispositional sentence very seriously. Prior to recommending that a youth be transferred to the adult system, DYS performs a bottom -up then top -down review of the youth.

When an SYO youth appears to have committed an act that would be a felony or first degree misdemeanor offense if committed by an adult or engaged in conduct that created a substantial risk to the safety or security of the institution, the community or the victim, the Operations Manager (OM) of the institution shall review the incident and accompanying paperwork in order to determine if the act, does in fact, meets the above criteria. If the OM determines that the act meets the above criteria, he or she follows the regular reporting procedures as well as collecting the necessary document to complete a SYO packet.

The completed packet is forwarded to the Deputy Superintendent of Direct Services who will make a recommendation to the Superintendent as to whether or not to proceed with processing the incident as an SYO request. The Superintendent will review the packet for completion and to make a determination as to whether or not the matter will be sent to the Central Office Review Committee (CORC). The packet consists of, among other items, witness statements, evidence, investigative reports, mental health evaluations, medical/medication issues and special management plans.

The completed packet with the recommendation that the adult portion of the dispositional sentence be invoked is forwarded to the Chief Legal Counsel, who along with the Chair of the Release Authority and Deputy Director of Facility Programs and Operations, or their designees, consists of the CORC.

First and foremost, the CORC reviews whether the youth and the incident meet the established criteria as set forth in R.C. § 2152.14. The CORC then reviews any mitigating/aggravating circumstances including but not limited to: the seriousness of the offense; seriousness of the injury; frequency of same or similar incidents; the use of prior interventions and sanctions used; any existing special conditions; or the possibility of any additional interventions or treatment.

If by majority vote the CORC is in agreement, they will make a recommendation to the Director that the adult portion of the youth’s dispositional sentence be invoked. If the Director concurs with the recommendation of the CORC, the packet is returned to the Chief Legal Counsel, who in turn forwards the request the prosecutor in the county of the SYO commitment. The process of invoking the adult portion of a youth’s sentence can be derailed at any point in the process, from the institution to the Director, if a recommendation to invoke is denied.

Once the prosecutor files the motion to invoke the adult portion of the dispositional sentence, the court will hold a hearing to determine whether or not to invoke. The juvenile court may invoke the adult portion of a youth’s SYO dispositional sentence if the court finds the following by clear and convincing evidence: the person is serving the juvenile portion of a SYO dispositional sentence; the person is at least fourteen years or age and has been admitted to the DYS or criminal charges are pending; the youth engaged in the conduct or acts charged as stated above and that the youth’s conduct demonstrates that the youth is unlikely to be rehabilitated during the remaining period of juvenile jurisdiction.

If the juvenile court issues an order invoking the adult portion of a SYO dispositional sentence, the juvenile portion of the sentence shall terminate, and DYS shall transfer the youth to the Ohio Department of Rehabilitation and Correction or place the person under another sanction as ordered by the court.