

Colorado Commission on Criminal and Juvenile Justice
Age of Delinquency Task Force

Minutes

March 7th, 2018 11:30AM-2:00PM
700 Kipling, 4th floor conference room

ATTENDEES:

CHAIRS

Jessica Jones, Criminal Defense Attorney
Joe Thome, Division of Criminal Justice

TASK FORCE MEMBERS

Kelly Friesen, Grand County Juvenile Justice Services
Rose Rodriguez, Community Corrections
Meg Williams, Division of Criminal Justice
Gretchen Russo, Department of Human Services
Molli Barker, 18th Judicial District
Jim Bullock, District Attorney's Office, 16th Judicial District
Tariq Sheikh, District Attorney's Office, 17th Judicial District
Melanie Gilbert, Juvenile Court Magistrate
Shawn Cohn, Denver Juvenile Probation
Bev Funaro, Victims' Advocate
Cynthia Kowert, Attorney General's office

STAFF

Richard Stroker/CCJJ consultant
Kim English/Division of Criminal Justice
Peg Flick/Division of Criminal Justice
Germaine Miera/Division of Criminal Justice

ABSENT

Julie Rammer, Public Defender's Office
Tony Gherardini, Department of Human Services
Representative Dafna Michaelson Jenet, House District 30
Dan Makelky, Douglas County Department of Human Services

ADDITIONAL ATTENDEES

Audra Bishop, Children, Youth and Families Branch, CDPHE
Gianina Irlando, Office of the Independent Monitor, City and County of Denver

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion:</p> <p>Joe Thome welcomed the Task Force members and explained that most of the meeting would be dedicated to informational presentations. He introduced guest speakers Audra Bishop from the Children, Youth and Families Branch of CDPHE and Gianina Irlando from Denver’s Office of the Independent Monitor. Joe asked Task Force members to introduce themselves and then reviewed the agenda and asked for any corrections or edits to the minutes. Seeing none the minutes were approved.</p>
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<p>Issue/Topic: Recap of February meeting outcomes</p>	<p>Discussion:</p> <p>CCJJ consultant Richard Stroker offered a summary of the February meeting outcomes. He noted that it was a productive meeting and that Task Force members explored various options and ideas for addressing the work.</p> <p>He reminded the group that they were also asked to identify what they thought were important values moving forward with the work. He explained that he then took those values and organized them into the categories of individual values, system values and ‘other’ factors. He directed members to a handout listing those values and asked the group if the conversation had been properly captured. A copy of the handout can be found on the Commission website at https://www.colorado.gov/ccjj/ccjj-cADTF.</p> <p><i>DISCUSSION</i></p> <p>Joe replied that he believes the list of values is reflective of the discussion. Jim Bullock asked for clarification on the value statement “Do no harm, while balancing public safety.” Richard replied that it means avoiding things such as setting up a system that may be efficient while inadvertently producing harmful outcomes for youth. Meg Williams offered that an example would be diverting a kid who is truly high risk into probation so they could get services, when they really should be somewhere else altogether. Sometimes a kid is over-served when it’s not an appropriate system approach.</p> <p>Meg requested that the last value on the list be rephrased from “The group should visit a housing unit/operational area to see how facilities are set up inappropriately → A housing unit can include a kid who wants to play with Legos and a gang member planning their next crime”, to “The system should be set up to ensure appropriate separation of juveniles by developmental status. Youth at very different stages of development and different levels of risk should be separated from one another to mitigate risk to the younger or less developmentally developed youth.”</p> <p>Richard summarized that this list of values will serve as a foundational piece to guide the group as it moves forward and to help make progress in the discussion.</p>
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	Discussion:
<p>Issue/Topic: Juvenile Brain Development</p> <p>Action: Audra to send three one-page articles on juvenile brain development by age group</p> <p>Gretchen to provide an article on the 8th Amendment and how children are prosecuted</p>	<p>Jessica Jones introduced Audra Bishop and Gianina Irlando and explained that they will be educating the group about juvenile brain development. Gianina distributed a packet of information describing some of the work of Denver’s Office of the Independent Monitor including information on a program called Bridging the Gap: Kids and Cops.</p> <p>She explained that the agency is an independent oversight organization for Denver’s police and sheriffs. The agency oversees internal affairs investigations and releases public reports outlining things law enforcement could do to better police themselves.</p> <p>Following numerous complaints from parents in the last few years about police officer expectations of juveniles, and kids getting caught up in the system unnecessarily, the agency conducted some research and applied for a grant opportunity to implement a program to teach both officers and youth how to more positively interact with each other. Denver now owns the curriculum for the program and has trained hundreds of parole and peace officers. Another element of the program included organizing dozens of stakeholder organizations to participate on an advisory board to engage community members in the dialogue. The final piece of the project was to implement a community facilitator training which, among other things, includes the components of restorative justice, trauma awareness, and mental health first aid for youth. The facilitators are expected to deliver the curriculum in the community three to five times per year. There have been 29 trainings over the last 2 ½ years reaching more than 1000 kids.</p> <p>As for law enforcement, the training includes opportunities for them to talk about their experiences including why they became officers in the first place. They also receive insights on how to interact with youth including tips that revolve around respect, remaining calm and communication skills. The Criminology Department at the University of Colorado is evaluating the curriculum with results expected by the end of the year. There are preliminary promising numbers about the amount of perception change resulting from the program.</p> <p>Gianina introduced Audra noting that her expertise is around brain development. Audra added that her background is in drug and alcohol counseling in youth facilities and that she trains many different audiences around the state.</p> <p>Audra emphasized that the work is very important and the numbers are clear that when officers understand youth development, it makes a difference on the street in Denver. She noted that it is important to understand that when it comes to youth development failure will always be part of the equation, and that environment factors, trauma and social determinants of health all impact how a youth shows up.</p>

Audra began a PowerPoint presentation on adolescent development, the full content of which can be found on the Commission website at <https://www.colorado.gov/ccij/ccij-cADTF>. The group participated in a discussion after the presentation.

DISCUSSION

Tariq Sheikh noted that while he understands the impact brain development has on a youth and their decision making, it's often challenging to communicate the information and talk about developmental impact with a victim or victim's family, or convey all the possible reasons behind a youth's behavior.

Tariq noted that at times the law enforcement community is at 'crossed arms' when hearing the issue of brain development used almost as a weapon. For example, connecting the dots between the lack of brain development in a juvenile with actual consequence of a crime is hard to balance.

Gianina replied that the goal of the Denver curriculum is to train law enforcement in the hopes of helping them to assess a situation before it escalates. Another goal for the program is to empower community members in an informational, preventative realm as teachers, counselors and parents. The hope is for bigger systems change and to try to get to kids much earlier.

Joe clarified that it is the difference between an explanation and an excuse and that trauma information is not about not holding someone accountable, it's about understanding the background. The messaging around this issue can be difficult to understand and it is important to meet law enforcement where they are.

To assist in this conversation Gianina disseminated an article to the group titled Adolescence, Brain Development and Legal Culpability. Audra added that she will forward three one-page articles to Task Force members that break down information into smaller age ranges.

Gianina described an effort that is underway to pilot the Healthy Kids Colorado Survey in NYC facilities. In 2014 the survey was distributed to 40,000 children in schools. The next survey (in 2019) will target 70,000 kids across the state and the goal is to also distribute the survey to 'systems involved' juveniles at that time.

Jim Bullock asked if there is any research that factors in cultural differences. Audra replied that in places like Asia, with cultures where children are required to mature at a faster rate, adolescent response to authority is completely different.

Gretchen offered to distribute an article about the 8th Amendment and how it reduces the prosecution of children as adults.

	Discussion:
<p>Issue/Topic: House Bill 18-1050 / Background and Update</p> <p>Action: Tariq to report on the progress of the bill at the April meeting</p>	<p>Tariq directed Task Force members to a copy of House Bill 18-1050 in their packets. The bill concerns competency to proceed for juveniles involved in the justice system.</p> <p><i>DISCUSSION</i></p> <ul style="list-style-type: none"> • The bill establishes a juvenile-specific definition of “competent to proceed” and “incompetent to proceed” for juveniles involved in the juvenile justice system. • Tariq noted that one of the significant pieces of the bill is the definition of “mental capacity” on page 3. • The bill also provides specific definitions for “developmental disability” and “mental disability”. • Another important piece of the bill is on page 4, part c which reads “Notwithstanding the differences between adults and juveniles, age alone is not determinative of incompetence without a finding that the juvenile actually lacks the relevant capacities for competence.” • This piece of the legislation basically means that even though a 10 year old may interpret things differently than a 16 year old that alone cannot be a reason for incompetence. • There are still issues that need to be addressed on the competency front such as if a child commits a crime but is not restorable, what should be done with them. • Meg asked if the issue of competency has been increasing for juveniles. Tariq replied that they are on the rise for both juveniles and adults. He noted that one problem with competency is the length of time it takes for an evaluation keeps the kid in the system without receiving treatment. He added there is not a lot of good data on details of competency evaluations. • It used to take 6 weeks for a competency evaluation but that’s now up to 2-3 months. • Jim pointed out that juvenile filings are dropping consistently but the request for evaluations is going up. There is an average wait time of 70-90 days for evaluation to take place during which youth are often on an outpatient bases. • On the adult side people are in jail that wouldn’t need to be there except for the fact that they are waiting for an evaluation. • On the juvenile side of things the advantage is that kids are required to be held in the least restrictive environment. Far and away the vast majority of evaluations are done out-of-custody, they’re just taking far too long. Oftentimes this results in a youth picking up additional cases. • Tariq said he will report out on the progress of the bill at the next meeting.

	Discussion:
<p style="text-align: center;">Issue/Topic:</p> <p>Identification of Opportunity Areas</p> <p style="text-align: center;">Action:</p> <p>Discuss the three main outcome areas at the April meeting and determine how to approach the work</p>	<p>Richard Stroker outlined the general process for task force work explaining that after topics are identified, the group will determine how best to approach those topics. Sometimes smaller working groups are developed to address more targeted, individual issues and at other times a task force may choose to approach the work altogether.</p> <p>The first step in this process will be to identify the problems or issues that need to be addressed related to the age of delinquency. Richard emphasized that at this point the group should avoid discussing any solutions and focus on thoughts about issues, topics and problems that group members feel are important. Group feedback and discussion points are outlined below.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • There is an issue of mingling of kids of various ages and the vulnerability of the younger kids. • There are no validated risk assessments for kids that young. This is bigger than just detention. • The system is not ‘little kid’ friendly and there is an issue with the comingling of kids in general. There are 10 year olds seated next to 17 year olds in office waiting rooms. Additionally, there is no age separation in probation. • There is no training on how to deal with a 3rd grader vs. a high schooler. • Many 10-11 year old are sex offenders. • A question was asked about whether there is a validated tool to deal with kids under 12. • Oftentimes in areas with a robust municipal system there is no systematic early intervention. Kids who go through municipal first, then hit district, and aren’t eligible for programs because they have a prior offense. There’s no systematic early intervention that is therapeutic in nature. There is usually a fine and then they’re ineligible. In Denver it’s different because there is no municipal level early intervention. • Municipal court is major problem area. Some type of standard is missing. • There is an increase in municipalities that now want to use detention without services. • There is a disconnect between municipal and county/state. People in municipalities are usually handling every case under the sun and the Das are not necessarily trained to deal with kids. • Are there statutes that regulate the municipal process? • There is an absence of therapeutic options, absence of education, and absence of regulation. • Another problem is how to ensure more positive interventions earlier, not just from the criminal justice system. • There is an overall lack of resources available statewide for juvenile justice and a lack of ability to respond with those resources. • There are few resources available as far as independent living skills for the transitional ages of 18/19 year olds. Many of these juveniles are

couch surfing.

- There is a lack of resources or ability to respond to situations involving 10-12 year olds.
- A question was asked about juvenile treatment options and whether they are similar to adults as far as cognitive skills, life skills, substance abuse, etc. Are there any opportunities for healing or alternative resources addressing things like rites of passage?
- Is there a developmentally appropriate juvenile system?
- Law enforcement has a unique perspective on younger kids. They often don't want to place a kid in the system but they can't get services for the kid otherwise. 10-12 year olds are very high need and officers often see the same kids over and over. Oftentimes there are parental responsibility issues but access to higher need services are often inaccessible.
- The system is not well-equipped to handle 18-21 year olds. These young adults are often living at home still and the failure rate is huge.
- 18-19 year olds represent a pivotal last opportunity to get out of system.
- There should also be a community corrections facility specifically for 18-24 year olds, rather than comingling an 18 year old with a 45 year old who just got out of prison.
- Oftentimes nobody has held a youth accountable.
- The issue of a juvenile's hyper-sensitivity to 'fairness' was raised during the presentation earlier. Maybe there could be some sort of training for people who work with juveniles around issues of accountability and fairness.
- Expand the role of CASA or the role of the guardian ad litem.

At the conclusion of the discussion Richard summarized that he heard three main problems/issues surface during the conversation:

1. Mingling of kids of different ages

- should 10/11 year old be mingled with older kids
- are there validated risk assessments available for younger kids
- what are the resources available for 10-12 year olds

2. Absence of a systematic, therapeutic early-intervention approach to manage a younger population

- regardless of whether they are 10, 11, 12 or 13 there is a void when it comes to systematic early intervention
- there is a lack of education at the municipal level
- there is an absence of resources or capacity to respond to the youngest offenders

3. Older juvenile offenders represent a different kind of population with different issues

- should these juveniles be in the adult system or not
- are we acknowledging a unique aspect of that populations
- who are the partners that need to be involved in this work

Richard explained that during the April meeting he would like the group to further discuss these three themes and determine whether the issues should be tackled as a full group or in separate working groups.

Joe asked for clarification on the assumptions around timeframes for completing

	<p>the work. Richard replied that he believes the group could have recommendations in approximately six months.</p> <p>The group asked if Audra might have the availability to return to the April meeting for a presentation on the breakdown of three distinct age categories. Jessica said she would contact Audra about her availability.</p> <p>Joe added that he had a discussion recently with Ted Rubin who was the original author of the Colorado Children’s Code. He asked Ted why he had picked the age of 10 as the bottom age for delinquency. Ted replied that he had looked at Utah, Hawaii, Virginia and two other states that had done similar work and they had all settled on the age of 10. He said it was a completely arbitrary decision and that it sounded good and made sense at the time.</p>
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<p>Issue/Topic:</p> <p>Next Steps and Adjourn</p> <p>Action:</p>	<p>Discussion:</p> <p>Richard reminded Task Force members that at the next meeting they will review these three main issue areas and determine how best to approach the work.</p>
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Next Meeting

April 11, 2018 11:30am – 2:00pm 710 Kipling, 3rd floor conference room