

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

**Minutes**

May 9<sup>th</sup>, 2018 11:30AM-2:00PM  
700 Kipling, 4<sup>th</sup> 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  
Gretchen Russo, Department of Human Services  
Molli Barker, 18<sup>th</sup> Judicial District  
Jim Bullock, District Attorney's Office, 16<sup>th</sup> Judicial District  
Tariq Sheikh, District Attorney's Office, 17<sup>th</sup> Judicial District  
Shawn Cohn, Denver Juvenile Probation  
Cynthia Kowert, Attorney General's office  
Jessica Meza, Public Defender's Office  
Germaine Meehan for Dan Makelky, Douglas County Department of Human Services  
Meg Williams, Division of Criminal Justice

**STAFF**

Richard Stroker/CCJJ consultant  
Germaine Miera/Division of Criminal Justice

**ABSENT**

Bev Funaro, Victims' Advocate  
Tony Gherardini, Department of Human Services  
Representative Dafna Michaelson Jenet, House District 30  
Melanie Gilbert, Juvenile Court Magistrate

**ADDITIONAL ATTENDEES**

Ketevan Vashakidze, the Republic of Georgia

<p><b>Issue/Topic:</b> Welcome and Introductions</p> <p><b>Action:</b></p>	<p><b>Discussion:</b></p> <p>Task Force Co-chair Joe Thome welcomed the group members and asked them to introduce themselves. Co-Chair Jessica Jones reviewed the agenda and asked for any corrections or edits to the minutes. Seeing none the minutes were approved.</p> <p>During the introductions Meg Williams explained that she had a guest in attendance and asked the group to welcome Ketevan Vashakidze, a prosecutor from the Republic of Georgia who is visiting the United States on a government cultural exchange program. Ketevan explained that she is visiting the U.S. to learn more about the criminal justice system here and to share information on how the justice system works in Georgia. She pointed out one difference is that in the Republic of Georgia the minimal age for criminal responsibility is 14-years-old, and that incarceration isn't used in the same way for juveniles in her country. 10 years ago that age limit was set at 12, but that wasn't working so lawmakers changed it to 14. If a child is under 14 they are still investigated, but then when the case is closed social workers continue to work with them.</p>
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<p><b>Issue/Topic:</b> Recap of April meeting outcomes</p>	<p><b>Discussion:</b></p> <p>CCJJ consultant Richard Stroker offered a summary of the April meeting outcomes. He reminded Task Force members that there was a productive discussion and the group revisited the three areas of possible study and agreed to tackle the issues one at a time, as a full group, rather than splitting into Working Groups.</p> <p>The Task Force defined the first study area as the Absence of a systematic, therapeutic, early intervention approach to manage a younger population (10-12 years old). This issue will be the focus of the work today and for the next few meetings.</p> <p>After the group completes this first study area the next issue to be addressed is examining the older population of juvenile offenders (18-21 years old). The third and final issue area to be studied is the mingling of youth at different ages. Richard explained that he would like the group to get to a point with each of these issues where recommendations are produced on that specific topic, then wrap up that work and start on the next study area, producing a set of recommendations and then coming to a stop. At the end of this process the group will look at all the recommendations together to ensure they flow, and end up with a packet of recommendations that will cover the full three issues under study.</p> <p>***</p> <p>Joe explained that Mollie Barker and Cynthia Kowert both supplied information for the meeting today and he asked them to review what they provided, noting that staff would then add it to the google drive of information established for the Task Force. A copy of the handouts can be found on the Commission website at <a href="https://www.colorado.gov/pacific/ccjj/ccjj-cADTF">https://www.colorado.gov/pacific/ccjj/ccjj-cADTF</a>.</p>
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	<p>Cynthia Kowert directed group members to page 2 of a memorandum which shows the minimum age of delinquency for approximately half of the states in the country as of 2016. 11 states, including Colorado have set the age of delinquency at 10 years old. The age in Arizona is 8 years old and in North Carolina it's 6 years old. She said that unless something has changed in the past few years there is no beginning age of delinquency over 10 years old.</p> <p>She noted that the rest of the document digs deeper into what happens at different ages. On page 3 there is information that says children between the ages of 8 and 10 learn to mentally combine, separate, order and transform objects and actions. She added that parenting magazines talk about kids at the age of 10 and that they are doing a lot of complex tasks, more complicated math, and using brains quite well in school. She summarized that the Attorney General's office believes at the age of 10 a child has the ability to know they've done something wrong and they have the ability to understand consequences. Therefore, it's appropriate to put them in the juvenile justice system.</p> <p>Molli offered an opposing viewpoint and directed Task Force members to a handout titled "Disrupting School-Justice Pathways for Youth with Behavioral Health Needs" endorsed by the National Center for Mental Health and Juvenile Justice. She also directed Task Force members to two handouts with flowcharts that outline two school responder diversion models that support approaches for responding to school-based issues that are more incidence-based. She explained that in both models, after an assessment is done all factors are considered and it is determined why that behavior is happening in the first place, then appropriate services are applied before putting the juvenile into the system. There's also an emotional screen for mental health. She finished by saying these are more holistic, therapeutic approaches to behaviors and that there are also other ways to respond rather than simply placing a child in the juvenile justice system.</p> <p>Joe added that assessment centers have also brought a lot to the table in a good way. They used to just be places to screen youth, then they turned into screening and supervision, and now they're working with crossover youth. He added it may be good to keep assessment centers in mind as places to provide services and/or a base for the recommendations.</p>
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<p><b>Issue/Topic:</b> Work Plan / Management of 10-12 year olds</p> <p><b>Action:</b> Meg offered to have researchers present their findings on the success of state funded juvenile diversion programs</p>	<p><b>Discussion:</b></p> <p>Richard explained that during this section of the meeting he would like the group to do the following three things:</p> <ul style="list-style-type: none"> <li>• Identify key principles regarding the management of 10-12 year olds</li> <li>• Revisit/review data regarding this population</li> <li>• Discuss current and best practices</li> </ul>
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Ask the Office of Research and Statistics in DCJ, which produces an annual report on student incident contact in schools, if there's any more info available

Tariq to work with CDAC on any additional available information on diversion programs

At the next meeting bring in someone from an assessment center or a treatment provider to explain how they identify issues and provide services to younger populations.

#### IDENTIFY KEY PRINCIPLES REGARDING THE MANAGEMENT OF 10-12 YEAR OLDS

Richard started the discussion by revisiting the list of group values established in the first two meetings. He asked if the values are still relevant when addressing the population of 10-12 year olds specifically, and if there is anything to add. The values list is broken into 'Individual' and 'System' values. Richard started with the list of individual values.

#### **Individual Values**

- Kids are kids – we must give kids opportunities, and sometimes failure will be part of it.
- Give opportunities for growth/development while managing public safety
- There are different levels of misbehavior and some have greater elements of public safety
- Keep in mind the importance of family even after the age of 18
- Accountability and consequences – consider appropriate consequences to effectuate change
- Trauma is not an excuse for a person's behavior, but it does inform how that behavior is addressed
- Responses need to be individualized - don't undervalue what an individual may need
- Environmental factors matter → parents, peers, others
- It's important to have healing opportunities

#### *DISCUSSION*

- Cynthia said these are all good things, however when it comes to the first one, if failure is committing an assault on someone else it is reasonable to put a kid in the juvenile system, even at the age of 10.
- Meg said there should be more on the list about brain science and developmental science. She said the more she's learned the more she knows how different 10 year olds are from 12 year olds. Maybe the group could revisit the science about the differences between a 10 and 12-year-old, and apply research and information in an appropriate way.
- Jes reminded the group that any recommendations will need to be grounded in evidence.
- Tariq Sheikh pointed out the group needs to look at the data that's available and unavailable. There's a gap in data from municipal courts and diversion data. The number of cases filed is one thing but the number of other systemic interventions will be important as well. The group needs to gather and consider appropriate data from Richard's list.

Richard then reviewed the list of system values and again asked if anything was missing.

#### **System values**

- Keep the juvenile justice system from traumatizing people further as they move through the system
- Have respect for different systems, work together to help people

- There is a systems obligation to equity, the system needs to act fairly
- Alternatives for this population are important
- Make sense of our options in an age appropriate way
- Early intervention is critical; behaviors often show at 4<sup>th</sup> or 5<sup>th</sup> grade
- Developing appropriate responses given all the factors → what's best for child, community and victim
- Do no harm, while balancing public safety
- Be cognizant that victim trauma is real and it matters
- Flexibility and integration of systems – develop the best response to the individual
- The juvenile system is geared toward rehabilitation but victims should have equal weight in the system
- Balanced public policy is important → personal liberty, interventions, right of the community

#### *DISCUSSION*

- Molli said the bullets about 'making sense of our options in an age appropriate way', and 'early intervention is critical, behaviors often show at 4<sup>th</sup> or 5<sup>th</sup> grade' speak specifically to 10-12 year olds.
- She added that kid's issues are still going to be present even if the age of delinquency is moved up or if the juvenile system is removed altogether. The issues don't go away.
- It would be a disservice to say these youths are excluded from treatment just because the age may move.
- It's important to identify issues and engage in activities to address future problems. Address the issues now so as not have to deal with them again when they're a little older.
- Meg added that these are our community's kids. No matter what door they enter they still need to be valued and served.
- Cynthia asked why a child would do better if they just didn't get charged. Meg replied that while charges are sometimes in order, she believes it would be hard to find a 10-year-old where JV is the only system to serve them.
- Jim Bullock mentioned that just yesterday three juveniles threatened to shoot up a school in his jurisdiction and that the community was outraged because the judge in the proceedings focused on providing them with treatment. The system is currently geared toward treatment already.
- Kelly Friesen explained that she struggles to find places for a 10-year-old to do community service and with demanding restitution when a kid can't get a job at 10. She believes 10 and 11-year-olds need to be treated more like a 9-year-old, either as beyond control of parents and/or through human services.
- Tariq noted that with this specific age group certain aspects need to be considered. In Adams Co. approximately 90 -95% of charged cases on 10-12 year olds will go to county-funded diversion programs. There's also a lot of deferred adjudication. But many other communities don't have diversion resources. Additionally, a majority of kids are involved in sex offense issues but we know those same kids are normally victims

themselves and there's no reason to label a 10-12-year-old as a sex offender. There is a lack of a systemic approach and there needs to be more age appropriate resources.

- Molli noted that truancy issues are different for different age groups. When an older kid is truant it's on them, when a younger kid is truant it's on the family. This goes along with delinquency in general – when you see a 10-year-old acting out and committing crimes it's usually more of a family issue. You need to engage the family at that age and the system isn't good at doing that.
- Germaine Meehan explained that it would be a disservice to eliminate this age group from the whole spectrum of options and that we need to take into consideration that shifting systems or eliminating systems isn't necessarily the answer.
- There's a wide misperception that the JV system is punitive rather than rehabilitative, even though the words in the law are about treatment and rehabilitation.
- Shaun added that she feels this younger group is much better served in diversion and restorative justice than sitting with older offenders.

Richard summarized the key concepts and important elements from the **key principles** discussion as follows:

1. Apply research and information in an appropriate way (EBP)
2. Gather and consider appropriate data
3. Age appropriate resources – with a purpose to provide treatment and address issues
4. Make sense of options
5. Early intervention
6. Identify and address issues
7. Focus on prevention
8. These are the “community's kids”
9. Accountability

#### REVISIT/REVIEW DATA REGARDING THIS POPULATION

Richard revisited some data that was originally presented during the first Age of Delinquency Task Force meeting. He pointed to a handout on court filings for 10 to 25-year-olds. He asked group members to look specifically at the 10 to 12-year-old population and what is happening with these kids currently. A copy of the handout can be found on the Commission website at <https://www.colorado.gov/pacific/ccjj/ccjj-cADTF>.

He explained that in looking at the first page of the document, in 2016 502 cases were filed for 10 to 12-year-olds in district, juvenile delinquency and county courts, which is a little over 1% of the 10 to 25-year-old group. The 10-12 age range is a very much a minority group of people in general court filings for 10-25. The 2<sup>nd</sup> page breaks out this same information by race and ethnicity.

The 3<sup>rd</sup> page of the handout lists those 502 filings by filing charge with assault as the primary charge but with a number of sex assault charges as well. There were 50 cases of 'other property' crimes and 45 for felony assault. A significant

percentage of charges were for misdemeanor assault. And the 4<sup>th</sup> and 5<sup>th</sup> pages show the data breakdown by gender.

Richard asked the group to focus on the information provided on the last page – which details the initial sentence by age. What seems to happen with these cases is that for most 10-12 year olds, they end up diverted, deferred or with the case disposed of in some kind of alternative way. The data seems to indicate that the practitioners in the system have generally taken other approaches to dispose of the cases.

#### *DISCUSSION*

- Jessica noted the 141 misdemeanor assault charges on page 3 and commented that she believes kids are often criminalized for things that used to be normal behavior, like fighting at school. She asked how much misdemeanor assault is school fights. It's also unclear whether the 45 cases of felony assault for 10-12 year olds is gang violence or maybe even domestic violence.
- Shaun replied that usually the cases that are misdemeanor assault are not fights between two kids, but rather one kid assaulting the other kid. When a kid gets charged at Gilliam it's most often because the victim asks for charges to be filed. There aren't even school resource officers for the 10-12 age group.
- Cynthia said it's also hard to know how many times a kid has been in trouble before finally getting charged with misdemeanor assault. They could've acted out a dozen times before.
- School gets frustrated because there's not a system outside of the juvenile justice system helping schools manage these kids.
- Jim said he thinks the State Court Administrator's office has numbers on which filings are affiliated with schools.
- Germaine added there was a time where police thought if they filed charges the family would get involved in the system and get help – but that's not usually the case.
- Meg explained that the system itself actually screens out a lot of kids when the issues are familial. The JV system is not necessarily the right place to be pushing issues that may be more family based or mental health based.
- Jessica agreed that there's a lot of diversion failures because the parent doesn't follow through. A 10-year-old doesn't have the clout to tell their parent to take them to an appointment in a family system that is likely already hectic to begin with.
- Kelly asked if there's any data on why exactly kids are failing diversion. Tariq replied that the data is inconsistent jurisdiction to jurisdiction and it's hard to conceptualize data in a statewide context. He pointed out numbers on one of the handouts that shows Jefferson County diverting 285 kids in 2017, the 4<sup>th</sup> diverting 400-600 cases a year, and Denver referring 90. What the different jurisdictions do is rampantly inconsistent. Adams Co. has a 90% success rate with diversion. It's really tough to know or say on data. There's no way to check consistency in any useful way when the data is inconsistent.
- The CDAC prepared a document that shows that a vast majority of

- districts have a juvenile diversion program and only a handful do not.
- Another issue when looking at responses and options is how to improve programs already in place.
  - Meg referenced a state study aimed at honing in on the success of state funded juvenile diversion programs. There's also a new process underway with EPIC to try to learn more about what is working, and what needs improvement in different programs. Meg offered to have researchers come and present their findings.
  - Joe pointed out that kids who are in school are more likely to be successful on diversion. A lot of outcomes are correlated with being in school, which is intercorrelated with all other issues related to parental capacity, mental health, etc.
  - Meg added that if a younger kid rises to the level of charges there's usually mental health, substance abuse, behavioral health or trauma involved.
  - Tariq explained that when he gets a case filing it can land anywhere in the spectrum from sex assault to a school fight. He always asks himself "Why do I have this case right now". Typically, the first move is to call the school. If a kid steals something from a store the first thought may not be about behavioral health. If it's a sex assault issue it's important to determine whether the child was sexually abused themselves. But consistency jurisdiction to jurisdiction is different. Adams files 500 cases a year and Arapahoe files 1000, and different prosecutors have different caseloads.
  - Cynthia noted that with repeat offenders, juvenile or adult, there's usually a mental health, behavioral health, substance abuse or other underlying unresolved issue.
  - Tariq added he also sees a lot of resistance from police to file in many situations. The more that SROs have been in schools and have become more educated, they don't want kids in the system either. There's more of a grace period for a 10-year-old, but by the time a juvenile is 13 or 14 they've often exhausted all their opportunities.
  - Molli said that sometimes there's an assumption that schools and people are trying lots of options before referring someone – but there's no solid data as SRO's aren't in elementary schools. She knows of one school where as soon as a kid brings drugs or alcohol they're suspended immediately the first time and expelled the next. None of that is therapeutic, just punitive.
  - Joe noted that the Office of Research and Statistics in DCJ produces an annual report on student incident contact in schools and that maybe Kim could provide some information at the next meeting.
  - Molli said the Dept. of Education publishes similar stats.

Richard summarized the important elements from the **data** discussion as follows:

1. For 10-12 year olds there are few filings
2. For cases filed – diversion or other options are often used
3. Misdemeanor assault is the leading charge
4. For school related issues, we need more info about how many are due to familial issues

Richard outlined three areas the group seems interested in investigating now:

**Can responses/options be improved?**

- Is there room for improvement on diversion responses/options? What are the outcomes of different diversion programs? How are kids chosen for diversion and is there consistency?

Shawn noted that places like Denver have a high refile rate because they're taking on higher risk kids. And Denver won't take a kid with an open human services case.

**What are the *services that are available*?**

- Are there therapeutic, holistic options?

**What about *school related issues*?**

- What is the data and what are the school response systems? Is there a need to examine school responses to different types of situations?
- Is there a way to better understand the services that are available (JAC's, OBH, providers)?
- How do services match the issues that the kid is presenting?

Richard reiterated these are the three things the group appears to want to investigate now. The next steps are to come up with ideas about what should happen and try to learn a bit more about each topic. The group will then try to figure out what the best practices are in specific areas in terms of change. The more we dig the more issues we will find. The group will have to make the best assessment on what we need to know.

Joe commented that the group is peeling apart the onion farther and farther, and it might be good to try and set some boundaries about what we're talking about. The first question is about how we manage people at different ages, the second question is what the appropriate age should be – it's twofold.

Ketevan shared that the law in the Country of Georgia and most other European countries is that the age of criminal responsibility is 14-years-old. It's the European standard of human rights and children's rights. Europeans believe many different factors affect competency including geographic make-up, culture, physical development, and tradition to name a few.

**DISCUSSION**

- Jessica asked if there's a list of all available services, where they are and how they are organized or offered.
- In response to Jessica's question Joe asked Gretchen if there is a repository of local options or services that municipalities provide. Gretchen explained that SB94 plans talk about how they're addressing kids. However, each situation is different – many parties (child welfare, mental health, schools, juvenile justice) can bring a kid to a staffing and determine how they can best be served.
- Shawn explained there is no centralized list of treatment providers.
- Tariq asked whether the group is making recommendations at a state or municipal level. Things that might be best addressed at the state level are different than at the municipal level.
- Jim added that diversion programs are often geared toward higher risk

clients. In Durango 95% of their diversion clients are drug or revocation for traffic offenses.

- Gretchen said she believes there's not a one size fits all solution. Maybe it's more about the process and how kids are assessed.
- A question was asked about whether someone from OBH is needed on this group.
- Jessica asked if there is access to municipal court data. Tariq replied that the information is rampantly inconsistent and dependent on each jurisdiction. There's no way to know what municipalities are even offering.
- Shawn noted in Denver a lot of kids go through municipal court because it's easier for the cop to just write a ticket.
- Jessica said it will be difficult to come up with a recommendation without available data. There can be 100s going through municipal that we don't know about. Maybe there should be a recommendation around data tracking.

#### DISCUSS CURRENT BEST PRACTICES

Richard directed Task Force members to a handout listing the available diversion programs operated by DA's for juveniles in each jurisdiction. The CDAC created the handout for the Commission and Richard explained he thought it might help the group better understand the different elements. Richard asked if there is a way to get even more information from DA's about the programs and Tariq said he will work with CDAC to address some of these issues.

Meg reminded the group that she has data and evaluation findings on the kids who are served by state funds and she offered to work with Tariq. Tariq added that if people have specific questions to address them to him or Meg. Richard asked if there are elements of these programs that lead to better outcomes. Meg replied that it's premature to know that for any specific program and that the information is anecdotal at best. Tariq said there are diversion working groups and that he can talk to CDAC about ideas for getting that information. He said he will have a conversation with CDAC about where to gather the info and let the group know what CDAC says.

Meg asked if there's anyone out there that might be better able to help the group understand what happens to a very young child in the system currently. How does this wheel turn now? Joe replied that there are places like the Hub in Larimer County that deal with delinquent and child welfare cases. They have different blended screening models. Richard explained we want to understand what exists currently and the ability of the system to respond to the individuals. Germaine said it can be tricky with a very young child because a 9-year-old that is stealing may or may not rise to the level of human services. It depends on the issue driving the behavior.

Shawn said in Denver they go to the assessment center. Maybe a recommendation should be that all jurisdictions need to have a JAC. Let's bring in a provider that serves kids under 12 for different things and what exactly that

	<p>looks like. What are the resources in schools, what can we learn from OBH or a JAC? At the next meeting we'll try to learn more from individual assessment providers on identifying issues and providing services to younger populations.</p>
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<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>Next Steps and Adjourn</p> <p><b>Action:</b></p>	<p>Richard explained that at the next meeting the Task Force would hear from a service provider about methods for approaching this population and what a systematic, therapeutic, early intervention might look like.</p> <p>Tariq will get with CDAC and update the group on any additional information about juvenile diversion programs. Tariq and Meg will also connect and see if there's any way to collaborate on a report out.</p> <p>The Office of Research and Statistics collects information about certain offenses within schools. Let's talk to Kim about the ORS report and if there's any information to pull out of that on school incidents for 10-12 year olds.</p> <p>Joe asked if there were any other updates before closing the meeting. Gretchen reported that Senate Bill 18-154 passed which requires local juvenile services planning committees to devise a plan to manage dually identified crossover youth. Marijuana money will be used to help local jurisdictions develop their own plans, but the money is not for actual treatment. She added that annual conference for the National Council of Juvenile and Family Court Judges will be held this year in July and that there may be a number of workshops that could be useful to folks, including one in regards to the Crossover Youth bill. The link to the conference is <a href="http://www.ncjfcj.org/81st-annual-conference">http://www.ncjfcj.org/81st-annual-conference</a></p>

**Next Meeting**

July 6, 2018 11:30am – 2:00pm 700 Kipling, 4<sup>th</sup> floor conference room