

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

Minutes

July 11, 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
Gretchen Russo, Department of Human Services
Molli Barker, 18th Judicial District
Jim Bullock, District Attorney's Office, 16th Judicial District
Shawn Cohn, Denver Juvenile Probation
Cynthia Kowert, Attorney General's office
Jessica Meza, Public Defender's Office
Dan Makelky, Douglas County Department of Human Services
Meg Williams, Division of Criminal Justice
Bev Funaro, Victims' Advocate
Melanie Gilbert, Juvenile Court Magistrate (on the phone)
Josh Bogen for Representative Dafna Michaelson Jenet, House District 30

STAFF

Richard Stroker/CCJJ consultant
Kim English/Division of Criminal Justice
Laurence Lucero/Division of Criminal Justice

ABSENT

Tony Gherardini, Department of Human Services
Tariq Sheikh, District Attorney's Office, 17th Judicial District

<p>Issue/Topic: Welcome and Introductions</p> <p>Action:</p>	<p>Discussion:</p> <p>Task Force Co-chair Jessica Jones welcomed the group and explained that co-chair Joe Thome would arrive a little late to the meeting. Jessica asked members and attendees to introduce themselves, she then reviewed the agenda.</p>
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<p>Issue/Topic: Recap of June meeting outcomes Report outs</p> <p>Action:</p>	<p>Discussion:</p> <p>CCJJ consultant Richard Stroker offered a summary of the June meeting outcomes. He reminded the group that the first issue they identified to study is <i>“The absence of a systematic, therapeutic, early intervention approach to manage a younger population (10-12 year olds).”</i></p> <p>During the past few meetings the group has been looking at a wide range of information and learning about individuals in this age group who might be moving through our systems. Richard noted he hopes to wrap up consideration of this topic soon and to refrain from broaden the scope. He then pointed to a few data points about this particular age group:</p> <ul style="list-style-type: none"> • Court filings for 10-12 year olds are rare (less than 1% for 2014-2016) • In looking at dispositions only half of those cases filed made it to a disposition. Dispositions are: <ul style="list-style-type: none"> -Deferred adjudication -Probation (12 year olds) -Some diversion • Out of 120,000 case filings very few resulted in DYS/detention (10 cases) <p>Richard summarized that in the scheme of things it’s a small population of people who move through the system.</p> <p>Richard reminded the group that they have discussed where a case begins and how schools are often a starting point. In some jurisdictions there is an option of the JAC with collaborative approaches to treatment, assessments and therapies that are in line with evidence-based practices. Richard outlined the identified key decision points and explained that he hopes the group will have an in-depth conversation about these areas today.</p> <ol style="list-style-type: none"> 1. Law enforcement options <ul style="list-style-type: none"> -JAC’s 2. Detention screening team 3. Investigation/Determination by the DA
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	<ul style="list-style-type: none"> -Informal adjustment -Diversion -File / Assessments → options <p>4. Court Action</p> <ul style="list-style-type: none"> -PSI -Collaborative rec. → comprehensive approach to treatment -Disposition
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Issue/Topic:	Discussion:
<p>Work Plan / Critical Decision Points for the Management of 10-12 year olds</p> <p>Action: Kelly to work with Jessica and Joe on a plan to address proposed ideas and initiatives</p>	<p>Richard led the group in a discussion about critical decision points for the management of 10-12 year olds.</p> <p>Police officer initial decision-making There are Juvenile Assessment Centers in 7 jurisdictions, all on the front range, but the populous of those districts is large (50+ percent). There’s a definite advantage for law enforcement agencies that has access to a JAC. However, some of the jurisdictions that don’t have a JAC will still contract with a jurisdiction that can perform assessments remotely.</p> <p>There is some kind of assessment for all youth in all jurisdictions, but the kids most likely to be assessed and screened are the ones who appear to be eligible for detention. Many kids simply get a summons.</p> <p>Molli Barker explained that in the 18th JD there have been approximately 700 kids in the first six months of this year that came through their doors preventatively. Some youth are referred by schools, brought in by parents, or are runaways who are dropped off. Assessments done on non-detention kids include trauma, behavioral health and mental health assessments. The average stay is 3 ½ to 4 hours. The JAC is just one answer – law enforcement has other options like taking a kid home, taking them to jail and/or pursuing charges.</p> <p>Screening and assessments and outcomes from JACs A discussion was held about the statutory criteria for screening individuals who are eligible for detention. Detention options include home detention, secure detention and shelter beds among others. Joe Thome noted there might be an opportunity for Colorado to move to an actuarial detention screening tool but that issue may be beyond the purview of this group. Meg asked if it might be worthwhile to explore a formal process for referring 10-12 year olds <u>out</u> of the system.</p> <p>The group agreed that one problem lies with different parts of the system</p>

butting heads with other parts of the system. Dan Makelky explained that the child welfare side is heavily monitored but with a push to both decrease the use of detention and still hold youth accountable. Another issue is the lack of diversion options for the 10-12 year old group.

Richard summarized that the issues with detention and screening include; lack of treatment services, statutory criteria, system collaboration and available options for 10-12 year olds.

Investigation/Determination by DA

The group discussed options for what to do with a 10-12 year old who commits a serious act. Jim Bullock and Cynthia Kowert noted that there are some 10-year olds who truly are a danger to the public. The decision on prosecuting any crime sits with the DA, and all DAs look for treatment options for younger age groups. Unfortunately it often comes down to a lack of resources.

A conversation was held about the difference between a 9-year-old and 10-year-old who commit the same act, where the 9-year-old is often diverted to social services but a 10-year-old winds up in the juvenile system. Meg pointed out that some kids are filed on because the youth needs services. Dan noted that 10-12 year olds who commit serious crimes become social services and juvenile delinquency kids. Cynthia explained that no state has a delinquency age under 10 years old and that the line needs to be drawn somewhere. Cynthia and Dan both emphasized that it's also important to always keep the victim in mind.

The group moved on to discuss the pros and cons of various response options for the 10 to 12-year-old age group.

- **Therapy** – Care should be given when using therapy as a service. Therapy is not the answer or intervention for most issues. People often want to find out what the root cause is for someone's bad behavior but all that shows is that for that day and time they made a bad decision. Therapy and mental health evaluations are ordered in almost every case and can often damage a kid unnecessarily. A lot of kids are not ready to talk about or disclose their trauma.
- **Restorative Justice** – A lot of school districts are incorporating restorative justice model. Maybe there's an option for an RJ program in each jurisdiction.
- **Placement** – when young kids are placed in detention or child welfare their behavior is criminalized when it wouldn't be otherwise. For example if they hit a sibling at home or broke something they wouldn't receive assault or destruction of property charges.
- **Peers** – It's problematic when kids are brought together in cohorts to work together either through diversion programs or community

service. When a young person is put with an older person for community service that person becomes their peer. The conclusion is strong that keeping young people separated from peers who are delinquent or anti-social is critical. It's important to think about the other kids they're being exposed to at every point in the system.

- **Parents** – With the 10-12 age group the problem is often less about the kid and more about the parent. The kids with a parent problem really do need a referral to human services

Magistrate Melanie Gilbert pointed out that charging and accountability are not the same thing and that the criminal justice system does not help a lot of kids and actually makes them worse. Joe added that the CU Center for the Study and Prevention of Violence has documented 23 predictors of delinquency. The question is how to have services available that cover those 23 predictors.

Richard thanked the group for their experiences and objectives and summarized areas of common ground.

- Early Intervention is Key** Juvenile Assessment Centers are beneficial and helpful in matching youth with services. Encourage expansion of JACs and/or elements of service statewide.
- Availability of Service Options** The group collectively agrees that there are certain options they would like to see in place to match the situation with an outcome that makes sense from a public safety perspective and for prevention of future harm.
- Comprehensive Approach to Matching** There is also desire to match people with an appropriate disposition – which could be things like a resource, a treatment program or an RJ program placement. But the general goal is that there should be sufficient options available and to do a good job of matching people with the appropriate service.

Molli noted there is a bridge between A and B looking at basic needs, therapeutic needs and prosocial needs to connect someone with services. Kelly reminded the group that JACs are just hard in rural jurisdictions.

A suggestion was made about exploring the idea of creating a tiered system where different age groups could be charged with certain things. Jim and Cynthia disagreed with a tiered system noting that if an act falls in the category of a crime it's up to the DA to determine whether and how to file. Jim added that in La Junta and other small jurisdictions there may not be a lot of resources, but the upside is a lot of individual contact. There's less of a system response and more of an individual response.

A question was asked about whether there are systems in other states that address all of these components. A recommendation was made to

look at Connecticut. Another recommendation was made to keep disproportionate minority contact in mind when exploring all these issues. Bev Funaro emphasized that it's also critical to keep the perspective of the victim paramount when discussing options/outcomes. There are kids whose behavior is the result of being raised in a bad environment, but there are also kids who are privileged and affluent who commit very serious felony crimes.

Judicial decision making

The group moved onto the final topic of discussion regarding options when the case has worked its way through the system and to the point of judicial decision making.

Cynthia explained that the disposition is between the defense attorney and the prosecutor and will be worked out prior to the judge providing the sentence. She added that this is when the victim gives input to the prosecutor on the case.

Richard reiterated that for the 10-12 year olds who receive a disposition most receive diversion or a differed adjudication. The group discussed diversion cases and whether the court should have access to the information or if the cases should be diverted pre-filing.

Group members went on to discuss the Presentence Investigation. Denver performs a PSI on almost every kid but this isn't the case in most other jurisdictions. There was a suggestion and discussion about making a recommendation to mandate PSI's. There was also a suggestion to recommend the inclusion of an RJ component in these youth cases as actual recidivism rates go down with RJ.

Richard steered the conversation back to the ½ - 1% who are affected by a court filing and the things that could change that might have an impact on that individual and the future of that person.

- Early intervention seems to have promise through the JAC
- Once someone moves beyond law enforcement contact and opportunities at the JAC → there's a need to look at the options available and appropriate interventions
- Lastly, in resolving the case there needs to be comprehensive decision making for the decision makers. A collaborative approach to match a solution to a case.

Meg proposed the idea of a presumptive (not mandated) diversion program for 10-12 year olds who are direct filed on. Jim replied that he isn't comfortable with that idea and that there is never a presumption in any of his cases. In the vast majority of cases the goal is not adjudication and diversion is often the first thing considered. Jim added that he's an

	<p>advocate for the PSI, early screening and the earliest intervention for a youth. Dan suggested looking at the transfer statute.</p> <p>Joe reminded the group that it is the practice of both the Commission and its Task Forces to strive for consensus and agreement-building on proposals and recommendations. If this group has trouble agreeing on next steps it likely won't bode well for moving an initiative to the full Commission. Joe also mentioned various evolving models including one in which law enforcement brings a youth in front of a panel consisting of a DA, a behavioral health specialist, someone from human services, etc. and the panel explores best options/outcomes for the youth, including possible charging decision. It's a way to start moving cases more quickly down one path or another in a more collaborative fashion.</p> <p>Kelly offered to work with Joe and Jessica to brainstorm an approach to exploring the ideas that brought up during the meeting. Jim asked if someone could present more information at the next meeting about a transfer system. There are currently transfer mechanisms for older adolescents to transfer from the juvenile system into an older system. Maybe there's a similar scenario for the transfer of younger adolescents. Richard added that he would like the group to work toward consensus one way or another and move on to the next topic of 18-21 year olds, then marry those two together.</p> <p>Joe suggested the group return to the values statement (see below) and look at things like the Washington state model. He emphasized focusing less on the age issue and looking more at values.</p>
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Issue/Topic:	Discussion:
<p>Next Steps and Adjourn</p> <p>Action:</p>	<p>Richard wrapped up the meeting saying that Kelly would work with Jessica and Joe on a method to go about exploring the ideas/issues that were raised during today's meeting and a way for the group to make some decisions on this issue area and move forward.</p> <p>The meeting adjourned at 2pm.</p>

Next Meeting

August 8, 2018

11:30am – 2:00pm 700 Kipling, 4th floor conference room

Age of Delinquency Task Force

Group values / Categorized

March, 2018

INDIVIDUAL

- 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 needs
- Environmental factors matter → parents, peers, others
- It's important to have healing opportunities

SYSTEM

- 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 4th or 5th 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

OTHER FACTORS

- Refrain from pointing fingers
- 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