



Commission on Criminal and Juvenile Justice
Direct File Subcommittee
Minutes

October 8, 2008
 710 Kipling Street
 3rd Floor Conference Room

Attending:

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|--------------------------|-----------------------|--------------------|
| Doug Wilson (by phone) | Kim Dvorchak | Peter Weir |
| Ellen Roberts (by phone) | Sherry Stwalley | Ann Terry |
| Steve Siegel | Joe Thome | Jeanne Smith |
| Ted Tow | Meg Williams | Sara Steen |
| Pamela Wakefield | Stephanie Villafuerte | Maureen Cain |
| Gary Maas | Steve Hager | Mary Ellen Johnson |

Absent: Peter Hautzinger, Don Quick

Call to Order and Opening Remarks:

The Chairman, Peter Weir, called the meeting to order at 9:00 a.m. The participants introduced themselves. Mr. Weir began the meeting by outlining the general positions on the issue of prosecutor discretion in filing that may be so divergent that it would not be productive to spend time with discussion. Mr. Weir summarized the positions of prosecutorial discretion on one side and the desire for judicial decision-making on the other. He asked if anyone thought those positions had room for compromise. The consensus was that this issue was clear on both sides and there was little to be gained from further discussion.

State Judicial and DA Statistics

State Judicial shared the statistics they had gathered on juveniles charged as adults. She noted that there were many caveats to consider with the data. First, the numbers included all 14-17 year olds that were listed under a CR number. This will include transfers as well as direct files. Also, the numbers are by case, not individuals, so there is some duplication. For instance, in Denver there were 6 juveniles who accounted for 34 filings. On the charts where charges were counted, the numbers depend upon the individual court clerk's interpretation of the high charge. The chart showing that some 10 year olds received an adult filing was questioned as that is not permissible under the law. Ms. Stwalley said there are undoubtedly data entry errors that can cause that information to surface. The data covers a 5 year period from FY04 through FY08. Ms. Stwalley cautioned everyone that this data is not to be re-released by any of the committee and that the judicial department should be responsible for the data.

Pete Hautzinger was unable to attend the meeting but had previously submitted the chart from the 21st Judicial District with information on each direct file in that district from 1/11/05 through 2/14/08. This was shared with the committee along with copies of direct file information from Don Quick related to the 17th Judicial District.

YOS Statistics

Steve Hager presented data from YOS in response to six questions posed by the committee in the prior meeting. The average age upon admission is 16.8 years and the average age of their population is 19.4 years. 62% are active gang members and 87.5% are active, associated, or affiliated with a gang or security threat group. The cost per day for offenders of \$188..09 is based on the overall operation divided by the number of offenders being housed. The average length of stay to completion is 3.5 years.

Expansion of Use of YOS

The committee discussed whether raising the age of eligibility for a YOS sentence was a beneficial recommendation. It was the consensus of the group that allowing 18 and 19 year olds to be eligible for YOS under certain circumstances made sense and fit within the treatment capabilities of YOS. To gain further data on this, Steve Hager will get the information from DOC on the current population of 18 and 19 year olds in DOC including charges and length of sentence. Joe Thome will check on how many NYC offenders to transferred to DOC because they have aged out of the NYC system.

Ted Tow will take the issues of YOS age expansion and changing the rules on a criminal history for a juvenile who is charged as an adult but then later convicted and sentenced as a juvenile. This was part of the discussion concerning the import of being charged as an adult and how that appears on the criminal history regardless of the outcome.

At the next meeting, the committee will receive the information concerning YOS expansion and then begin the topic of whether 14 and 15 year olds should be included in direct file eligibility.

NEXT MEETING: November 5th, 1:30 – 3:30, 710 Kipling, 3rd floor