



**Commission on Criminal and Juvenile Justice**  
**Direct File Subcommittee**  
**Minutes**

October 15, 2009  
12345 W. Alameda Parkway  
Lakewood, CO

**Attending:** Peter Weir, Maureen Cain, Mark Randall, Doug Wilson, Evie Hudak, Kim Dvorchak and Steve Hager

**Call to Order and Overview:**

Peter Weir called the meeting to order at 10:43 a.m. When the subcommittee was established, its purpose was to determine if there were some issues around which consensus could be built. During the conversations that followed, it was clear that no consensus could be reached around the decision making entity for direct files. Other issues were discussed but the final outcome was unclear.

**Removal of some crimes out of the direct file eligible list:**

During the first meeting, there was some discussion about removing some crimes out of the direct file eligible list. There were no further discussions. Can the charges of vehicular homicide and vehicular assault be removed from this list? This question will be asked of the district attorneys at their next Governing Board meeting which is scheduled for October 15<sup>th</sup>. Also to be discussed will be vehicular homicide as a result of reckless driving versus as a result of drunk driving. Unless the subcommittee hears otherwise, it will be assumed that there will be no consensus on having vehicular homicide and vehicular assault removed.

**Law for pre-trial confinement:**

Maureen Cain presented an option for pre-trial confinement that presumes detention for the first 14 days after the detention hearing, excluding F-1 crimes. What happens to class 1s? Since a filing decision has not been made, they would go to jail.

Within the fourteen days, the defense will review the CEDRA and get further assessments as necessary. Joe Thome said DYC could do a full assessment that would include risk factors, suicide assessment and mental health assessment within 3 hours. The defense counsel would pay for any additional assessments. This option would include a full disclosure of information to all parties. If the parties don't agree on where

the juvenile will be placement after the fourteen day detention period, a hearing would be held at the place of confinement.

The hearing would include a totality review. Mental health records would be included as well as information from the schools. The focus should be the status of the juvenile and the mental health of the juvenile.

Can we outline a process to streamline the exchange of information between defense and prosecution prior to the hearing? This would help ensure the hearing does not become a four or five day event.

Have the fourteen day detention period during which NYC conducts its initial assessments. There would be a hearing by the Court making the determination where the juvenile is placed. This hearing would be an hour in length.

As more information comes to light by the defense, they have the ability to ask for a reconsideration hearing. The DA could also ask for an expedited hearing if the DA does not feel the juvenile should not remain in detention during the fourteen day period.

This option will also be brought to the district attorneys at their Governing Board meeting for their comments.

#### **Age for direct files:**

During the first meeting, there was discussion about increasing the age for direct files except in homicide cases. The current age limit is fourteen.

Is there consensus to increase the age limit to age sixteen? Fourteen and fifteen year olds could be direct filed if the crime is F-1 or F-2. Transfer hearings would be used for the remaining crimes. Transfer hearings are lengthy and expensive because psychiatric evaluations would need to be done. How many fourteen and fifteen year olds are we talking about? You are talking about approximately ten cases a year.

What about sex offenses? For example, two juveniles get drunk and have sex. The next day, the female claims rape. The juvenile is faced with pleading guilty and taking a juvenile adjudication or face going to an adult prison. Doug Wilson does not want the sex offenses be an exception to the transfer hearings. He would like transfer hearings across the board for F-3's on down.

All the national studies and best practice studies on direct files recommend transfer hearings.

Mark Randall will bring this issue to the district attorneys for their comments.

What about transportation issues? Douglas County is currently holding their juveniles in Brighton because they have beds available. Douglas County Sheriff is transporting the

juveniles to where their cases are. What happens if DYC places a juvenile in a distant county because there is space available, and the local sheriff has to pick up the juvenile and transport them to and from the hearing? This is a huge transportation cost for sheriff departments.

**Sen. Hudak's bill:**

During the last meeting, Sen. Hudak's draft bill was reviewed. As part of the discussion, the need for collecting data was identified. Maureen Cain handed out a proposal of the types of information that would be collected.

Whose responsibility would be to collect and hold this data? The School Safety Resource Center felt that the collection of this data did not fit into its charter and mission. Colorado Association of School Executives (CASE) was not sure why this data needed to be collected. Can we send this information to Office of Adult and Juvenile Justice Assistance (OAJJA) in the Division of Criminal Justice to be included in their annual report.

The schools have asked who will be providing the education and how will the funding be handled. The sheriffs are asking where the education will take place because Colorado law requires physical separation. Sen. Hudak has kept her bill vague in this area so the sheriffs have flexibility when determining what will work in their particular facility. Sen. Hudak asked for the subcommittee's support on her bill.

The district attorneys have until December 1 to review the three proposals discussed today. If they feel there are areas where consensus can be reached, another meeting will be called.

The meeting adjourned at 12:25.