

**Juvenile Justice Task Force**

July 19, 2012 - 9:00 am-12:00 pm  
JAC Center, Lakewood, CO

**Attendees:**

Regina Huerter, Denver Crime Prevention and Control Commission  
Norene Simpson, Indigent Defense Counsel  
Bill Kilpatrick, Golden Police Department  
Karen Ashby, Juvenile Court Presiding Judge  
Stan T. Paprocki, Division of Behavioral Health Office  
Kim Dvorchak, Co. Juvenile Defender Coalition (attendance by phone)  
Jeff MacDonald, Jefferson County JAC  
Lucia Waterman for Julie Krow  
Don Quick, 17th District Attorney’s Office  
Beth McCann, House of Representative  
Charles Garcia, Juvenile Parole Board  
Meg Williams, Division of Criminal Justice  
Joe Higgins, Mesa County Partners  
Susan Colling, State Court Administrators

**Staff:**

Ken Plotz, Consultant  
Adrienne Loye, Department of Public Safety

**Task Force Members Absent:**

Linda Newell, State Senate  
Bonnie Saltzman, JJDP Representative  
Inta Morris, Department of Higher Education  
Regis Groff, Retired State Senator  
Kirk Henwood, Montrose County SD RE-1J  
Julie Krow, Department of Human Services  
Michelle Brinegar, 8th District Attorney’s Office  
John Gomez, Division of Youth Corrections

**Guests:**

Anna Lopez, Division of Criminal Justice, OAJA  
Shawn Cohn, Denver Juvenile Probations  
Jose Esquibel, Interagency Prevention Systems Project  
Ken Sealy, Family for Partnership  
Amanda Bickel, JBC  
Judy Slade  
Jill Bennett, Senator Bennett’s Office  
Tom Raynes, CDAC  
Tamra Wilson, CDAC  
Mat Wenig, Denver District Attorney’s Office  
Michelle Lovejoy, Division of Criminal Justice, OAJA  
Tom Raynes, CDAC (by phone)  
Raechelle Alderete, Division of Criminal Justice, SOMB

<p><b>Issue/Topic:</b></p> <p>Welcome Introduction Approval of the minutes</p>	<p>Regina Huerter welcomed the group.</p> <p>Ms. Huerter announced a correction to the minutes of June 21, 2012. During the discussion on Realignment and Reinvestment of Justice Funds, the minutes indicate, “DYC has downsized and closed 4 secured facilities.” The correction shall read, “DYC has closed 1 facility and 3 housing units within other facilities.” Beth McCann moved for the approval of last month’s amended minutes. Don Quick seconded the motion. The minutes were approved by unanimous vote.</p> <p><b>Review of the CCJ meeting on 07/13/2012</b></p> <p><u>Status of Education/Truancy recommendations</u></p> <p>The Education Working Group recommendation requires a rule and regulation change on the state level permitting juveniles who are under the authority of juvenile courts to petition to petition to receive a GED. The courts would determine if this would be in the best interest of the</p>
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	<p>juvenile. In making that determination, the courts would review the credits already received by the juvenile and the steps the schools have taken in the attempt to keep the juvenile in school.</p> <p>This recommendation was approved by the Commission and will begin working through the legislative process.</p> <p>The Truancy Working Group recommendation requires the development of a multidisciplinary plan when addressing truancy. Schools are to examine the juvenile’s attendance, both excused and unexcused, and develop a multidisciplinary plan before the matter is taken to court. If Social Services are not already involved, the court can order an assessment of the family. If the juvenile continues to be truant, the court can then find the juvenile guilty of contempt of court and issue a sentence to detention for a maximum of five days. This ensures the juveniles receive the services they need.</p> <p><b>Group discussions:</b></p> <p>Don Quick expressed his concern the CCJJ did not separate the maximum five day sentence from the rest of the recommendation. Judicial may fight the recommendation because the provision could be viewed as interfering with judicial discretion.</p> <p>Charles Garcia stated he expressed his concern to the Commission that the GED recommendation would not apply to juveniles in DYC. Once the juvenile is in DYC, he/she is outside the control of the courts.</p> <p>Regi Huerter announced there is a meeting with the drafters scheduled for July 30<sup>th</sup>.</p>
<p><b>Issue/Topic</b> Social Impact Bonds</p>	<p><b>Discussion of Social Impact Bonds, Jose Esquibel</b></p> <p>Jose Esquibel is the Director of Interagency Prevention Systems Project and is a member of the Colorado Prevention Leadership Council. Because of limited funds, there is a need to find alternative sources of revenue. The concept of social impact bonds is being examined by several groups as an alternative revenue stream.</p> <p>Social impact bonds were first launched in September 2010 in the United Kingdom. The state of Massachusetts has also moved into a social impact bond approach. Social impact bonds result from a collaborative effort between government, social investors and non-profits service providers. This partnership can mobilize investment capital to drive social change.</p> <p>What is it? First step is developing a contract between the public sector, which commits to pay for improved social outcomes, and service providers. On the basis of this contract, the investment is used to pay for a range of interventions that are targeted to produce specific social outcomes. If the social outcomes are realized, the government sees savings through decreased service needs.</p> <p>Core features: The agreement has to have a targeted outcome. The term of the agreement is multi-year. Social investors provide the up-front capital. A network of non-profit providers monitors the performance. Government guarantees the reimbursement of the initial investment plus interest to the investors. If the outcomes are not achieved, the risk is on the investor. Non profits benefit from a predictable stream of revenue that enables them to better meet the needs</p>

	<p>of individuals and families.</p> <p>Who are the best candidates for social impact bond funding? Non-profit organizations with a strong track record for a well defined targeted population. Forum for Youth Investment is preparing a pilot idea.</p> <p><b>Discussion:</b></p> <p>What if social investors don't trust government? What can be said or done to calm investors' fears? Potential issues:</p> <ol style="list-style-type: none"> <li>1. Some would say that \$0.96 cents of every dollar goes toward administration of the program. The money is not going where it needs to.</li> <li>2. There may be political issues that would impact a government's involvement such as not closing a prison because it is the economic livelihood of a community.</li> <li>3. There is a need to ensure the funds from the government are not used for another purpose. Massachusetts made provisions through legislative means to ensure the money would be there despite any political pressure.</li> </ol> <p>How are you going to measure outcomes? If a program has a 42% success rate in one year, is that program expected to have an additional 42% the next year? Or is success defined as a lower but steady outcome.</p> <p>What is the impact of Tabor? The Government cannot continue to fund something for more than a year. Have we looked at federal funds? Senator Bennett's office may have an interest in convening a stakeholder meeting in the fall. Boulder may be interested in being a pilot project.</p> <p>Are there models that have more than one single government entity involved? Not at this time.</p> <p>We need to be thoughtful. What initiatives are going to be used? We need to develop priorities and limit ourselves to ideas that are based on science and research.</p>
<p><b>Issue/Topic:</b> Discussion of DUI Recommendations.</p>	<p>The Judicial Working Group has discussed the issue of juvenile DUI convictions and is looking for input and guidance from the Juvenile Task Force. There are a lot of discrepancies across the state on how these cases are being handled. Do we send the recommendation to the CCJJ? Shall it be referred back to the Judicial Working Group? Is it submitted to another group and start all over?</p> <p>The Working Group started out with the question, "Should juvenile DUIs be moved exclusively into the Juvenile court?" Early on the group came to the conclusion "yes."</p> <p><b>Discussion:</b></p> <ol style="list-style-type: none"> <li>1. The right to a jury trial is not guaranteed in juvenile court. Handling the matter in county court allows for a jury trial. In juvenile court, a jury trial is only allowed if the juvenile is classified as an aggravated juvenile offender or is charged with a crime of violence. Other juvenile driving related cases, such as vehicular homicide, may or may not have a trial. Why would this be carved out separately? The public defenders will oppose this position is as</li> </ol>

long as an offender loses the right of a jury trial.

2. 19-2-910 adds a section concerning the sentencing of juveniles. What happens when a juvenile is picked up for DUI and then turns 18 by the time the hearing occurs? The group determined that a juvenile who turned 18 before the conclusion of his case could have the case filed in county court.
3. What are the advantages? Access to treatment and the avoidance of county jail. Juveniles should be in treatment with other juveniles.
4. There is clearly a difference on the issue of jury trials. How many DUI cases with juvenile defendants go to trial in county court? Can we get that data – number of settings versus number of trials? Yes. This information will be provided next month.
5. Does allowing for the right to a jury trial for a misdemeanor open the discussion for the right to jury trials for felonies? The right to a jury trial may be an issue to discuss in the broader sense under a discussion on the Juvenile Code.

The second issue revolves around expungement of records. Current sentencing for DUIs is based on whether the offense is the first, second or third. The more DUI convictions, the greater the penalty.

***Discussion:***

1. In juvenile cases, records can be expunged.
2. Dept. of Motor Vehicles cannot have traffic records expunged. This section would have to be repealed.
3. For the purposes of sentencing, could the juvenile's record be expunged after 10 years if there are no intervening offenses? If you are 16 and been adjudicated for DUI and at age 27, get another DUI. Is that a second offense? No - if you agree on the 10 year provision. Yes - if you don't agree. CDAC said they would go along with this. The Denver DA would not. Public Defender said they oppose this measure because of the loss of the right to a jury trial.
4. There are all kinds of variations on expungement. Could you have hearings for expungement of DUI convictions? There are cases being handled in county court because the machine to handle the cases has been developed in county court. There is no such mechanism established in juvenile court.
5. Why are these cases any different from any charges that are eligible for expungement? Because of the risk for repeat DUI charges. Other juvenile related driving offenses (vehicular assault or vehicular homicide) are heard in juvenile court.
6. There will be a fiscal note from both the juvenile courts and probation. There will be less of an impact on the probation side, because the probation officers are already there except for Denver.
7. What is the best approach to lower recidivism - so they don't drive drunk again? Most juvenile offenders have multiple issues and need the juvenile response. What about getting the DUI off the record? The first DUI is a horrible occurrence and having the threat of a jail time for a second offense can act as a deterrent. That deterrent goes away with the ability to expunge records.
8. The issue for the public defender is that in county court with a jury trial, they win. In juvenile court without a jury, they lose.
9. Arguing on the basis for the availability of treatment options when going through juvenile court presumes the offender is guilty. The first job of the judicial system is to determine guilt

- or innocence. If an offender is found guilty, then the issue of the treatment options is next.
10. There is concern these juveniles kids will end up in DYC because of violating probation. The initial discussion was that since these were traffic offenses, the juvenile would not be eligible for DYC. If it is a repeat offense, then detentions is a possibility.
  11. Amending 19-1-306 to add (7)(e) that would exclude the below offenses from the possibility of expungement.
    - a. There are not many juvenile DUI cases that go to juvenile court. On those cases that do go to juvenile court, the juvenile can request the matter be expunged. The court then looks at the offense and various criteria that a judge would look at for expungement.
    - b. In amending 42-4-1307(9) it would say that a record could be expunged if there has been at least 10 years between DUI convictions and there have been no other misdemeanor or felony convictions in the interim.
    - c. There are two issues. There is the ability to expunge. And there is the issue about sentencing for subsequent offenses. DMV records are separate from judicial records and cannot be expunged. Law enforcement still can see arrests that have been expunged.
    - d. Victims groups may be very upset that juveniles would get a special route to getting their records cleared.

The third issue is about subsequent offenses:

1. DUI laws say that there are specific penalties for second, third and more DUIs. Subsequent sentences include mandatory jail time and lengthier probation.
2. The issue is, if a juvenile receives a DUI at age 17, and then receives another DUI at the age of 24, is the juvenile DUI counted as a subsequent offense?
3. What happens if a juvenile gets a DUI at age 14, and another one at 15 and another one at 17? Are they sentenced to mandatory jail? This is why DUI's are heard in county court. The juvenile cannot receive the mandatory sentences as outline in Title 42. The recommendation can be written to building in judicial flexibility in sentencing.
4. Does the new section take the word "jail" out and inserts "detention?" Juveniles cannot be sentenced to jail. The recommendation uses imprisonment. Are we trying to match the language in Title 42?
5. If we are thinking about using a 10-year period of time to allow a juvenile's DUI conviction not count toward subsequent convictions, can we use language that allows for more judicial discretion?
6. Should a DUI that occurred while under the age of 18, should it even be considered as a DUI? Is this an option for the court to consider? Depending on the circumstances of the new offense and the circumstances surrounding the original offense and the intervening criminal record.
7. This discussion is about amending Title 42.
8. What happens today? A juvenile DUI conviction currently counts as a previous conviction and is used as an enhancement. Can we sever this issue from the recommendation and make it a separate issue?
9. How do mandatory minimum sentences on subsequent offenses work with the Juvenile code? You are automatically setting up inconsistencies. We have already done that. We want to treat juveniles like juveniles.
10. Is there a general agreement that both issues are brought back to the group with clarifying

	<p>language and pulling out the language as a sentencing enhancer for a vote. Then the recommendation will be brought to the CCJJ in September.</p> <p><b>Decision: (Judge Ashby recused herself from any voting.)</b></p> <p>Do members of the Task Force support the move for juvenile DUIs from county court to juvenile court? No votes from: the Public Defender’s Office (right to a jury trial) and the Colorado Juvenile Defender Coalition. Yes votes from the remainder of the Task Force. This moves forward.</p> <p>Does this body agree that somewhere there has to be a provision that juveniles with a DUI do not go to jail as a sanction? All agree. This moves forward.</p> <p>Charles Garcia advocated for language stating that any person adjudicated for an offense under Title 42, CRS, cannot be expunged. Rep. McCann agrees with this suggestion. No votes: Norene Simpson and Kim Dvorchak. Yes votes from the remainder of the Task Force. This moves forward.</p>
<p><b>Issue/Topic:</b> Next meeting</p>	<p>Next meeting is on August 16, 2012 9:00 a.m. at the Juvenile Assessment Center. Meeting adjourned at 12pm.</p>