

Juvenile Justice Task Force

October 4, 2013 - 1:00 pm-4:00 pm
JAC Center, Lakewood, CO

Attendees:

Kelly Friesen, SB94, 14th JD/Grand Co. J.J. Dept
 Jeff McDonald, Jefferson County JAC
 Ann Gail Meinster, 1st Judicial District Court
 Norene Simpson, Indigent Defense Counsel (on the phone)
 Michelle Brinegar, 8th District Attorney’s Office (on the phone)
 Julie Krow, Department of Human Services (on the phone)
 Bill Kilpatrick, Golden Police Department
 Debbie Rose, Juvenile Parole Board
 Stan T. Paprocki, Division of Behavioral Health
 Beth McCann, Co. House of Representative
 Meg Williams, Division of Criminal Justice
 Bonnie Saltzman, JJDP Council Representative
 Hal Sargent, CDAC, 1st District Attorney’s Office
 Linda Newell, Co. State Senate
 Karen Ashby, Denver Juvenile Court

Task Force Members Absent:

Charles Garcia, Community at Large
 Regina Huerter, Denver Crime Prevention and Control Commission
 John Gomez, Division of Youth Corrections
 Susan Colling, State Court Administrators, Probation Services
 Kim Dvorchak, CJDC

Guests:

Peg Flick, Division of Criminal Justice
 Anna Lopez, Division of Criminal Justice
 Norman Kirsch, Child Welfare Services, CDHS
 Hollie Wilkinson, 13th District Attorney’s Office
 Kristin Rolfes (on the phone), 18th District Attorney’s Office
 Kelly Kissell, 18th District Attorney’s Office
 Katie Kurtz, 1st District Attorney’s Office
 Maria Campos Mozo, Community Justice Services

Staff:

Ken Plotz, Consultant
 Laurence Lucero, Division of Criminal Justice

Issue/Topic:	Kelly Friesen welcomed the group. Members and guests introduced themselves.
Welcome and Introductions/ Approval of Minutes	Debbie Rose moved for the approval of last month’s minutes. Stan Paprocki seconded the motion. The minutes were approved by unanimous vote.
Issue/Topic:	The group was handed out a document on <i>First Time Juvenile Offenders: Petty and Unclassified Offense Outcomes</i> .
Reports of Working Group meetings: Pre-filing system enhancement and Consent Adjustment	Jeff McDonald mentioned that the Data working group met on 9/6/2013 and 9/24/2013. The Data working group focused on Petty Offenses and Unclassified and discussed whether particular offenses within these categories should be removed or added from a “Petty Ticket” process. The Data working group agreed to make recommendation to the JJTF that all PO1 and PO2 and UC could be included into a “petty ticket” or “petty citation” process. Jeff commented that the data represents the number of offenses in the last 3 years and include the Denver county data. Peg Flick added that when the data from Denver was received, about 299 youths had cases in other counties so these cases were removed since there were no longer 1 st time offenders. The Denver data added about 500 petty or unclassified offenses.

Group Discussions

The concept that is being developed is to provide an alternative option for law enforcement officers coming in contact for a first time with a youth committing a minor offense. Under the current system, law enforcement officers can either “Lecture or Release” or write a ticket to refer to court. The “Petty Ticket” is another option for officers to write a ticket to entities such as Assessment Centers, Juvenile Services etc. With this process, youths would receive fines, being screened, do restorative and/or community services and ultimately if compliant, would not penetrate the juvenile justice system and have no criminal record. There are long-term consequences for juveniles that have case filed and end up with a criminal record (even petty offenses) such as military access, housing, student loan etc.

It was expressed the concern that, with this process, in those jurisdictions that have pre-filing diversion, 1st time petty offenders would no longer be tracked in the ICON system because they would not be charged.

The data presented do not include municipal charges so the youths listed as 1st offenders possibly are 5th time offenders.

There are two categories of diversion: Pre-filing diversion and, in some jurisdictions, deferred adjudication or post-filing are also considered diversion. It was suggested to better define diversion in the statutes and strengthen pre-filing diversion.

Kelly Friesen reminded that today’s conversations are about 1st time petty offenders and engaged the group to focus on this topic. Kelly welcomed any future issues to discuss at the Task Force such as expanding diversion and other pre-filing options. The process discussed today is not meant, intended to replicate or replace diversion, whether post-filing or pre-filing diversion but is merely an option for law enforcement officers coming in contact with youths for a first triggering event.

The group discussed at length the direction of the Juvenile Justice Task Force and updated on the discussions that occurred at the last JJTF meeting during which the Data Working group was instructed to work on 1st time juvenile offenders who are filed with PO1, PO2 and Unclassified. What would these options look like if law enforcement had the discretion and an additional option (not a mandate)? The JJTF group voted in August 2013 to enhance pre-filing options and forming a data group. The data group met between 4 times and presented at the JJTF meeting in September. In September, the JJTF group appointed the Data working group to work on Petty offenses and Unclassified, 1st time offenders.

A Juvenile Petty Ticket document is presented to the group for discussions and approval. This is drafted to formalize the recommendation from the Data working group for discussion today. Bonnie Saltzman argued that, even though the Data Working group worked and agreed on a less detailed document, the document currently presented is not from the Data Working Group. Kelly Friesen made the statement that the document was prepared by Kelly Friesen and Jeff McDonald for discussions and point of reference.

	<p>In this proposed process each local Board of County Commissioners shall appoint an agency or department that will be responsible for screening, assessing, and tracking all juveniles that have received a Juvenile Petty Ticket. This process opens up opportunity for collaborative management and would leave local discretion to use local agencies or departments.</p> <p>It was expressed concerns that sanctions are part of this process when there are courts and agreements already in place. In the 1st Judicial District, about 400 youths went through the system informally last year.</p> <p>One of the concerns with this process is the notion of separation of power. Under the constitution, law enforcement and prosecutors are part of the decision. When looking at “Diverting” a youth away from the court, the decision is with the enforcement branch not the executive branch. It makes sense to give a “voice” to local government in this process (local judicial district, municipality...) but the Board of County Commissioner is part of the “executive branch” and there is concern about the separation of power. Should the decision reside in the local Prosecutor’s office rather than the County Commissioner?</p> <p>Another issue would be that the victims are excluded in this process and the judicial system often ensures compliance. What happening for those non-compliant offenders and unsuccessful? The issue of youths that are unsuccessful and discharged with no further sanctions or intervention has been added to the list of “Cons” in the Juvenile Petty Ticket document.</p> <p>The MIP offenses are collected through the court database but may not be collected if the case went through an informal process. Data collections should be set up at the local level and this issue could be a de-incentive for communities. With the marijuana bill, it is suggested to add MIP (marijuana) under possible sanctions.</p> <p>There are diversionary programs in almost every county and most of 1st offenses are referred to county court. It was expressed the concern of the impact on the diversionary programs should such process be implemented for 1st time offenders. Additionally, all the municipal courts have diversion programs for MIP of alcohol and marijuana. A case is filed in a juvenile court for a low level alcohol or drug offense because the youth has other serious issues and through other programs, that youth may show up as a first time offender. The youth may be low risk with some systems but not low risk in others. In regards to alcohol and marijuana charges, there is a pretty well vetted system in place in most counties.</p> <p>Chief Kilpatrick was asked to provide his perspective on this process. Chief Kilpatrick responded that, part of the frustration that some of the members feel today is that these same discussions have occurred many times over the course of the past months and apologized if his perspective seems redundant. First, Chief Kilpatrick agreed that police officers are all across the board and they will write a ticket because this is the simplest and easiest things to do and don’t have any other recourse. Juveniles are put into the system for no other reason that there is no other place than the system. Juveniles are arrested, end up with a record and put in the system for minor offenses. In many jurisdictions, a juvenile has to plead guilty to be in diversion. The Chief</p>
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	<p>expressed many times that defense lawyers and prosecutors should not be involved for relatively minor offenses and agreed that juveniles should be held accountable for their action but out of the judiciary system. Research show that when juveniles enter the criminal justice system, they are more likely to go deeper into the system. Prosecutors put a “hammer” on youths and disagree with that “hammer” for relatively minor offenses and 1st time offenders.</p> <p>Hal Sargent specified Jefferson County doesn’t require guilty plea to access diversion services.</p> <p>With the passing of the School Discipline bill, starting in January 2014, all the SROs will be required to be trained through the National School Resource Officers on the brain development and on how to best work with juveniles. The bill also requires the law enforcement agencies to report on school incidents.</p> <p>In this proposed recommendation, the County commissioner board are suggested as an appointing an agency. Should law enforcement be in a better position to ensure that role?</p> <p>The issue of screening and assessing should be part of the concept discussed. What causes an individual to commit an offense? Integrating the possible dysfunctional back grounds of an individual and the mental health. It is not only about enforcing the law, accountability and sanctions, it is also about the behavioral health and how to integrate such piece into the process?</p> <p>A juvenile who commits a low level offense may have more serious behavioral issues and needs and there is the concern that, a civil system may not address these issues adequately for the youth and family. It appears that education and treatment would be part of the civil process but it was questioned the creation of a new process when diversion system is already in place. Youths that are pre-adjudicated have high needs and diversion is one way to access services. With a new civil system, would these youths go un-notices and un-treated?</p> <p>It was argued that prosecutors use criminal sanctions and use a civil system to get services.</p> <p>Families are often very resistant and it requires possible sanctions for non-compliance to have youths and families serviced.</p> <p>Majority of juveniles and families do not comply with diversion because these possible sanctions. Diversion officers or case managers work with families to enhance motivation, do appropriate screenings and assessments to determine what are the needs of the youth. It seems that the threat of the sanctions is not a factor for compliance but rather the assistance from Diversion officers and case managers to help families in this process.</p> <p>Amendment to minutes (approved 11/01/2013): It was stated that a majority of statewide diversion cases are actually successful. Concern was expressed that statements made by JJTF members during group discussions may reflect opinions rather than facts.</p>
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	<p>Ken Plotz re-engaged the group to discuss petty offenses as the tone of the discussions seems to address more serious offenses.</p> <p>Should the appointment of agency or department responsible for screening, assessing and tracking all juveniles who have committed a petty offense be left with the law enforcement rather the local Board of County Commissioner? Law enforcement officers have discretion in the first place and can work with their communities, local prosecutors, HB 14-51 or SB-94 etc. and wherever these agencies can leverage the resources. There was such a process back in the 80s where LE had discretion to referred to community agencies and non-profit. This process had ceased because of funding issues. The group should discuss the funding that will be attached to this process.</p> <p>It was suggested that expungement would address the concern of the juvenile record. Additionally, training the officers and building communities as a resource for officers should be explored to address the issue of how to proceed with juveniles who commit low level offenses. An officer could refer a juvenile directly to the community/program. There are counties that have a good process in place with their communities and could be models to other counties. Funding for training and technology should be a focus.</p> <p>Officers write tickets to juveniles or to people with mental health issues because this is the only possible resource to get people services. Chief Kilpatrick reiterated the idea that another process needs to be developed for low level offenders because the current system is a system based on sanctions. Should national experts be invited to present to the CCJJ and this Task Force on this issue and on how to divert youth away from the criminal justice system?</p> <p>It was expressed that the Petty Offense Ticket is a small piece and that the JJTF group should take bigger positions for change to have a significant impact. Changing the system, improving the system and keeping the youths out of the justice system. Realigning funding with the saving from prosecution, probation, DYC and realigning these funds in the front end where law enforcement can refer to communities with evident-practice based programs.</p> <p>It seems that the conversations today keep elevating to higher end youths. These are petty offense offenders needing little or no services. The Petty Offense ticket is a little piece of the puzzle that can be implemented statewide as a pilot.</p> <p>How does the juvenile justice system fit into the broader system? The group should also assess inter-agencies efforts and work together.</p> <p>Should a new system be created or should the existing one be improved? The group is deviating from today's discussions and it is asked to focus on the Juvenile Petty Ticket and engaged to provide suggestions on the document.</p>
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	<p>Jeff McDonald asked the group the direction it wishes to go. Does this group want to keep the same course and take small pieces that are broken in the system and fix it or does this group want to change things and make things new, taking on new lenses or taking new approach? The group cannot go further without clear direction.</p> <p>Kelly Friesen weighted on Jeff McDonald’s statement and stated that this group had the same conversations for several months. The Data Working group met several times to move forward recommendations but it seems that the JJTF group is not moving along. The petty offense issue has been narrowed down to its best and seemed the easier task to tackle for this group. If this group disagrees with the direction the JJTF is heading, it should be stated and then the group will move on to other issues rather than continuing discussing about why this process should be implemented.</p> <p>It was recommended to take a vote on the general concept.</p> <p>Senator Newell made the motion to “further the discussion on the Juvenile Petty Ticket, and iron the details at the next JJTF meeting”. Judge Ann Gail Meinster seconded the motion.</p> <p>Votes: 7 Yes (both Chairs voted to break an original tie) 5 No 1 Abstention</p> <p>The motion passed.</p> <p><i>Discussion about points to flush out the “Juvenile Petty Ticket”</i></p> <ul style="list-style-type: none"> - Impact on the drug and alcohol intervention programs in place (diversionary programs) if alcohol and marijuana case are included in this process. - How information on criminal history is pulled. - Looking at data on school incident reported by law enforcement agencies and collected by CDPS. - Looking at the Restorative Justice bill of last year requiring collection of data in 4 pilot programs. - Recommendation to implement this ticket as a pilot first. - Funding for entities responsible for carrying this out. - Flushing out which entities will be responsible for the juveniles. <p>Any additional comments and details to flush should be sent via email to Ken Plotz by Friday 11, 2014.</p> <p>Other discussions: It is suggested to examine diversion programs and clarify which counties require to a guilty plea to enter diversion.</p> <p>In sum, Ken Plotz and Jeff McDonald will propose a meeting to work on flushing out the draft document and on addressing additional request of information and all other topics discussed today.</p>
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<p>Issue/Topic:</p> <p>Report from working group: Raising the age of delinquency</p>	<p>Kelly Friesen provided an update on the Raising the Age of Delinquency Working Group. The group convened for a first meeting on 9/30/2013 to discuss the raising of the age of delinquency from 10 to 12. The SB-94 Evaluation report published data on the type of offenses committed by 1st time offenders age 10 and 11 years old. The data shows that most offenses are assault, arson and sex offenses related. The group will look further on the seriousness of the sex offenses (bra snappers or more serious offenses?).</p> <p>Kim Dvorchak will gather studies on brain development and other research. Should these children be served by Human Services? The group discussed the traumatic impact for 4th to 6th graders to be sentenced to detention. Victims’ representatives will participate to these discussions.</p> <p>Next meeting will be on 10/30/13 at 9:30am-11:00am at 710 Kipling St., in the 3rd floor conference room, Lakewood.</p> <p>Group Discussions:</p> <p>In many cases, when a judge sentences a child to detention, the child is releasable to Human Services if a placement is found and therefore the child does not serve the entire detention sentence. How many of these children are in this situation? The working group is requesting the “reason detained” from DYC.</p> <p>What is the rational to choose age 12 years old? Is it supported by specific data, evidence? It was suggested that the group first examine why changing the age and what age is appropriate to change it to. It would be helpful to gather other research and data suggesting that there may be a line to draw that is appropriate based upon developmental maturity, outcomes, and responses to certain interventions.</p> <p>The National Council Juvenile and Family Court's research division, the National Center for Juvenile Justice (NCJJ) located in Pittsburg has undertaken various studies and is a resource on topic related to the field of juvenile justice.</p> <p>The age 12 years old is just a started point for discussions as the number of offenses increases considerably after 12 and older youths commit a larger variety of offenses. It is agreed that the discussions should be research-based. Kim Dvorchak is gathering research on brain development and other research.</p> <p>There should be solid research-based foundations on why and at what appropriate age should the age of delinquency be raised. It is also suggested to look at other states’ work.</p> <p>The substantial increase of number of offenses committed after 12 years old can be explained by the fact that there is a screening process in place by District Attorneys and that District Attorneys would rather have the 10-12 years old children served by Social services than filed.</p>
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	<p>Senator Newell informed the group that a legislative research can be requested to the Legislature free of charge and to let her know if any particular topic should be researched.</p>
<p>Issue/Topic: Report from Working group: Human Trafficking</p>	<p>Jeff McDonald explained that before moving forward with the working group, Ken Plotz and Jeff assessed whether other group(s) initiated discussions on Safe Harbor. Multiple groups and amongst them, a group in which House Representative McCann participate are already working on this issue and therefore, it was decided to dispend the JJTF/Human Trafficking working group. The JJTF will follow on these other groups' efforts.</p> <p>Rep. McCann will meet with the Attorney General's Office next week to examine recommendations from the Uniform Law Commissioners regarding human trafficking and to work on possible state statutory changes. Rep. McCann added that the issue of Safe Harbor was a complicated issue because from the law enforcement officer's perspective, when somebody is charged, the police can support the young person to testify and be provided services. It is also discussed how to prevent for the juvenile to end up with a record when he/she has been coerced into prostitution or some other illicit activities. More research will be undertaken by the group.</p> <p>Senator Newell mentioned that she is working with the Polaris project on those issues and will discuss with Rep. McCann and Jeff McDonald to prevent duplicated efforts.</p> <p>Are any of groups looking at children in foster care that are drawn into prostitution? Rep. McCann's group is mostly looking at criminal statute. Senator Newell's agreed to initiate these discussions with her group. Katie Kurtz from the 1st District Attorney's Office reported that the Denver Anti-Trafficking Alliance is working on answering questions as part of the model uniformed legislation and discussing whether to adopt this model and how it would fit in the state infrastructure. One of the major issues is the recruitment from foster homes, treatment agencies, youth residential treatments and detention facilities and the group drafted a recommendation to consider the offense of recruiting from these centers as a sentencing enhancer. The group works closely with the Rocky Mountain Children's Law Center and with Human Services. It is primarily a Denver-wide initiative but interested parties can attend the meetings and the group encourages a multi-disciplinary approach and welcomes all ideas around the table.</p> <p>The Laboratory to Combat Human Trafficking has conducted a 3-year research on human trafficking and recently issued a policy recommendation.</p> <p>A CCJJ report on Human Trafficking and Slavery will be published in the upcoming weeks in the CCJJ website.</p> <p>The issue of Human Trafficking will remain a topic of discussions and updates in the JJTF meetings.</p>

<p>Issue/Topic:</p> <p>Report from working group: Professionalism</p>	<p>Bonnie Saltzman indicated that the Professional working group started at the JJTF about 18 months with mission to explore ways to enhance the work force for those who work in the juvenile justice. That group developed some basic and advanced curriculums and cross-trainings from judicial probation officers, prosecutors, defense attorneys, case workers, non-profit organizations, part of CDHS who work with cross-over children.</p> <p>The Professional working group and the Juvenile Justice Delinquency Prevention Council combined efforts and drafted white paper outlining the importance of work force development, heightening professionalism, heightening knowledge about juveniles, development and attachment issues , brain development and how it all plays in the court rooms. More specifically, how prosecutors, public defenders, GAL could benefit from having the same knowledge and training about developmental issues and family system, mental health, substance abuse and how could they choose to use that knowledge in the courts.</p> <p>Is the White Paper addressing the issue of judges’ rotation? The White Paper doesn’t address this issue but there are comments recommending that judicial officers, prosecutors, public defenders, defense attorneys invested in the judicial juvenile process be properly trained to operate for the best interest of the child, the victims and the justice.</p> <p>The issue of judges’ rotation is an ongoing conversation occurring in the Chief Judge Council and remains a culture change more than a policy change. The Chief Judges decide within their districts on docket rotations, docket assignments. It is observed a change over time regarding the willingness from Chief Judges to allow a same pattern of rotation for a longer period of time (Jeffco, Adams, Broomfield are an example).</p> <p>The issue of rotation applies in the public defender’s Office, in the District Attorney’s Office.</p> <p>At McArthur Foundation presentation in Boulder about 8 months ago, District Attorneys were encouraged to hire more season prosecutors and assign them to juvenile cases.</p> <p>In terms of rotation, it is more challenging in smaller jurisdictions than larger jurisdictions.</p> <p>The National Council Juvenile and Family Court Judges has issued over time resource guidelines and policies for child welfare cases, juvenile cases advocating that prosecutors, defense attorneys as well as judges should have expertise in that juvenile justice area. The only way to gain expertise is to have worked in that same area for a long time and one of the issues is that many of the rotations are not long enough to 1) develop the expertise and then 2) to bring that expertise to bear on the</p>
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	<p>work done.</p> <p>The document will be sent via email to the group for review and Bonnie proposed to submit the white paper for approval at the next JJTF meeting in November for presentation to the CCJJ.</p>
<p>Issue/Topic:</p> <p>Other topics and JJTF scheduling</p>	<p>Senator Newell informed that she is chairing the Committee for the Continuing Examination of Persons with Mental Illness in the Criminal and Juvenile Justice System. The Task Forces from this Committee pushed forward two drafts of proposed legislations that Senator Newell would like to forward those recommendations to the JJTF group for feedback. The proposals are regarding the Committee make up and the competency at trial. Senator Newell is asking suggestions regarding the composition of the Committee body and about issues on competency at trial.</p> <p>Senator Newell reported the issues discussed at the Committee: 1) The speed that is not occurring. It is mandated that competency assessment be completed within 30 days but reality is that juveniles often wait over 190 days for competency. Is this situation acceptable and what is the solution to this issue? 2) There is no standard assessment tool used for competency. It was argued that there was a standard but providers may choose not to use the assessment. 3) The lack of data on competency assessment.</p> <p>The next Committee meeting will occur in November/December at which time the draft of the bill will be reviewed. Senator Newell is also asking whether a member of the JJTF should be added to the Committee and bringing juvenile expertise to the group. Jeff McDonald proposed to present on the juvenile mental health courts.</p> <p>The Shackling working group will convene and Maria Campos Mozo from Community Justice Services will present research and resources on the topic. Jeff McDonald will propose dates to meet to the group and interested parties. The working group will present an update at the next JJTF meeting in November.</p> <p>The Raising the Age of Delinquency working will meet on October 30, 2013.</p> <p>It was reminded that all meetings from CCJJ, Task Forces, Sub-Committees and Working groups are posted on the CCJJ master calendar at www.coloradoccjj.org. A doodle poll was sent to the members to change the JJTF meetings to other days that Fridays afternoon. Wednesdays morning show the most availability and therefore, it is announced that JJTF will be changed to Wednesdays morning effective February 2014.</p> <p>The legislative representative will not be able to attend during sessions but will be updated on the progress of the Task Force at their convenient time.</p>
<p>Issue/Topic:</p> <p>Next meeting</p>	<p>A document on Formal System Processing of Juveniles: Effects on Delinquency was handed out to the group.</p> <p>Next meeting is on November 1, 2013 at 1:00 pm at the Juvenile Assessment Center. Meeting adjourned at 4 pm.</p>