



Colorado Commission on Criminal and Juvenile Justice

**Minutes**

August 8, 2008  
National Enforcement Training Institute  
12345 W. Alameda Parkway

**Commission Members Attending:**

Peter Weir, Chairman	Ellen Roberts	Ken Gordon
David Kaplan, Vice-Chairman	Don Quick	David Michaud
Bill Kilpatrick	Steven Siegel	Tom Quinn
Inta Morris	Karen Beye	Doug Wilson
John Suthers	Dean Conder	Reo Leslie, Jr.
Regis Groff	Regina Huerter	

**Absent:** Peter Hautzinger, Rhonda Fields, Ari Zavaras, Gilbert Martinez, Melissa Esquibel, Terrance Carrol, Grayson Robinson, Debra Zwirn, Ted Harvey

**Call to Order and Opening Remarks:**

The Chairman, Peter Weir, called the meeting to order at 9:37 a.m. Mr. Weir asked Jeanne Smith to explain the focus for today's meeting.

Jeannie Smith stated the panelists are to speak about how a juvenile case moves through the system from arrest to sentencing and the involvement of the social services system. The seven panelists were introduced in the order of their presentation: Jamin Alabiso, Heidi Taylor, Debra Campeau, Sharon Sandoval, Bob Colson, John Gomez, Judge Brian Boatright.

**Panel on Juvenile Justice in Colorado:**

Jamin Alabiso, Deputy District Attorney, 17<sup>th</sup> Judicial District:

Jamin Alabiso is a Deputy DA in the 17<sup>th</sup> Judicial District with five years in the Juvenile Unit. He began by outlining how a juvenile case proceeds through his office.

1. How do cases come into the juvenile justice system? The first thing is a crime or bad act. The police then investigate the crime and bring their information to the district attorney's office for review. In the 17<sup>th</sup> Judicial District, their goal is to review a juvenile filing

within 72 hours of presentation. This is a self imposed deadline. This 72 hour deadline also assumes the juvenile has not been arrested.

2. How do you make charging / filing decision? The district attorney has an ethical obligation to charge only those crimes for which there is a reasonable likelihood of conviction. In the 17<sup>th</sup> Judicial District, they then look at quality of evidence. Are there any evidentiary issues? Was the arrest done properly? What is the right thing to do in this case? For example, a lot of cases come out of schools. Does the nature of the crime warrant introducing the juvenile into the system?
3. Mr. Alabiso was asked to describe the legislative mandate of what is in the best interest of the juvenile versus what is in the best interest of the community. What is in the best interest of the juvenile is very important be considered. But in the final analysis, the best interest of the community is the final deciding factor.
4. Mr. Alabiso was asked about direct filings. A direct file case comes in the same way as any other case. A crime occurs, the police investigate, and the case brought into the DA for review. At this point the DA looks at the case differently. In the 17<sup>th</sup> Judicial District, the Deputy D.A. completes a direct file proposal. The proposal includes the juvenile's criminal history, the past adjudications and sentences, the facts of the case, and the juvenile's age. This proposal then goes to a supervisor for review. This is still done during the 72 hour time frame.
5. How do you make decisions as to which cases are referred to a diversion program versus what goes to court? Any crime that is appropriate for diversion should be sent to diversion. There are guidelines of what should not go to diversion: any crimes of violence, weapons offenses, felony theft, and sex offenses (excluding unlawful sexual contact).
6. How do you make the decision to detain a juvenile? The juvenile is screened through the Juvenile Assessment Center and it is the JAC that makes the determination if the juvenile needs to go into custody or not. In Adams County, there are only 29 juvenile beds in the county jail and 7 beds in Arapahoe County for a total of 36 juveniles. Within 48 hours the juvenile must be brought before the magistrate for a detention hearing and then the DA has to make the decision about filing within 72 hours.
7. How many cases are filed in 17<sup>th</sup> JD in a course of a year? They file 800 – 850 new cases a year and review 1300 cases.

Heidi Taylor, Public Defender's Office, 10<sup>th</sup> Judicial District:

Heidi Taylor is a State Public Defender in Pueblo. Ms. Taylor stated:

1. Children from low income areas are treated differently than others. The policing patterns are different as well. The police are less likely to charge more leniently. Juveniles from low income areas will be more likely to be detained and held overnight because their parents don't have a car, or don't have a phone to be contacted, or work at night. SB 94 funds are to prevent kids from kept in detention. In Pueblo they are used for Detention Alternative Program which is an ankle bracelet. In Pueblo, if the parents cannot afford a land line, their child is not eligible for an ankle bracelet. Certain juveniles based on the nature of their families, their neighborhood are charged differently than others.

2. A problem she has in Pueblo is that the public defenders do not get information as to why the juvenile is charged.
3. A Guardian Ad Litem is usually requested by the defense attorney when the victim of the crime is a family member or is a witness to the crime. The Guardian is not an advocate for the child.
4. The public defender will explain the adjudication process to the juvenile and focus on making sure the child understands what is going on. Most juveniles want to get out of jail as quickly as possible. They will plea to anything to just go home. The Public Defender's office tries to make sure the juvenile understands the ramifications of having a felony on their record.
5. Ms. Taylor discussed the impact of the mandatory offender statute (three adjudications and the juvenile has a mandatory year out of the home). Public defenders try to get the District Attorney to offer misdemeanor pleas to avoid the mandatory statute.
6. Juveniles are often dealing with mental health issues, a dysfunctional home, may possess a low IQ, and have drug or alcohol abuse issues.
7. Ms. Taylor then discussed the issue of truancy. Truancy and dropping out of high school have a direct correlation as to who goes into jail. Truancy is a negotiation tool for the public defenders. If a juvenile is in school, the public defender can tell the district attorney where the juvenile will be during the day.
8. What is the difference between a felony adjudication and a felony conviction? Felony adjudications do not have to be disclosed. A juvenile's record will come into play in an adult felony case. It does not affect the ability to get housing, but it can affect your ability to enter into the military or to get scholarships.
9. Ms. Taylor discussed cross-jurisdictional concerns. There are several Residential Treatment Centers (RTCs) throughout the state. There are two down in the Pueblo area which are popular. While the juvenile is in Pueblo at the RTC, and the juvenile offends again, there is an argument as to who pays for the commitment. RTCs have educational programs and Medicaid can reimburse for treatment costs. It costs approximately \$130 - \$190 a day for RTC.

Debra Campeau, Office of the Child Representative, 4<sup>th</sup> Judicial District:

Debra Campeau is the Guardian Ad Litem for El Paso County. She deals with delinquency cases as well as dependency and neglect cases.

1. In a delinquency case, the Court decides if they are going to appoint a Guardian Ad Litem (GAL). Currently they have 550 D&N cases and 140 delinquency cases. Their case load cap is 85 but they try to keep it to 60 cases.
2. The court appoints a GAL and it is usually done when no responsible adult shows up at the first hearing. Often there is a conflict between the parent and the child. Sometimes the parent is the victim of the allegation in the delinquency. The court can appoint a GAL because it is in the best interest of the child. A GAL must be a licensed attorney in the state of Colorado. There is a provision to be appointed in a Direct file case.
3. The role of a GAL is the "second parent" and acts as an additional check and balance on the juvenile justice system. The GAL may have all kinds of information about the juvenile that would be important for the DA or the Court to know. In a delinquency case,

- the GAL is not a party in the case. There is no attorney-client privilege with the child, so they do not want to talk to the child about did he/she commit the crime. They can have input on treatment, the family and what other resources are available for the juvenile.
4. The GAL may have information about the juvenile's family situation that may not be known to the DA or public defender. There may be non-relatives that are coming into and out of the home that would impact how well the juvenile can comply with the conditions of the court. The GAL can get the juvenile's school records and mental health records which can assist everyone in making a more informed decision.
  5. The GAL likes to be involved in the plea offers so they can make sure the juvenile knows the ramifications of the plea. They can ask for protective orders or ask for competency evaluations to be done.
  6. Once the child is sentenced to out of home placement, there are a lot of issues to address. Is the placement is working for the child? Are the educational and therapeutic needs being met? The GAL does visit the juvenile in their placement. If a child struggles with his/her placement, this has a huge impact on his/her education. By the time the juvenile has picked up the delinquency, he/she is far behind in the educational system.
  7. How many direct file cases have GAL involvement? Is there a role for the GAL to give input into the charging of the juvenile within the initial 72 hours? Can the GAL provide information to the DA to slow down the charging? GALs are being appointed after the direct file decision was made. Ms. Campeau does believe that it would beneficial to be involved in the decision making process.
  8. Is there a mechanism where the Public Defender or DA could look to see if a GAL is involved with a juvenile? No. Jamin Alabiso said that in the direct file decision, the DA is calling anyone who has been involved with the juvenile in the past. Doug Wilson said there is no way for the PD, the DA or the GAL to have access to information about the juvenile. The Courts are just now allowing access by these individuals to the information.
  9. How do we get the full picture of the juvenile for a direct file? There is common ground that this Commission can agree on. (1) Early valid assessment through the juvenile assessment center. (2) Information sharing should be enhanced. (3) System collaboration should be better. Schools, social services, justice systems are putting their restrictions on the juvenile and how can they all work together. (4) Long term relationship with the juvenile and his family that can be followed up on.

#### Sharon Sandoval, Juvenile Probation, 20<sup>th</sup> Judicial District

Sharon Sandoval is with the Juvenile Probation Office in Boulder. She spoke about what services a juvenile is offered while in probation.

1. All youth entering the Boulder system prior to the first court appearance undergo an assessment called the Colorado Juvenile Risk Assessment (CJRA). The DA and Public Defender are given this information. Sometimes the DA will use the information in determining if there will be an offer of Diversion. This information can also be used to determine bond recommendations. After adjudication, a judge will order a presentence report. The CJRA is also used by the individual in preparing the PSI.

2. There are standard conditions of probation: The juvenile cannot break the law. They have to keep their probation officer aware of their whereabouts. They are to notify their PO of any police contact. They have to attend school or have a full time job. If there are prohibited individuals, the juvenile will be ordered to have no contact with them. They are also subject to random UAs.
3. The probation officer and the client work together to develop a case plan revolving around the goals of the juvenile.
4. Probation has several levels of supervision. Juveniles on probation are not angels and they will make mistakes. There are intermediate sanctions, such as writing an essay, or meaningful community service. They also use restorative justice where the juvenile takes ownership of their deed and how what they did affects others. Boulder has a wilderness program and weekend detention sentences.
5. Boulder also has the IMPACT Partnership which grew out of SB94. The IMPACT partnership pools SB94 funds which are used to assist juveniles who cannot afford to pay for a program. All of the players that deal with the juveniles have to be at the table to discuss what should be done with the individual. In rural areas, not everyone is involved.
6. Boulder Probation has focused program areas, such as sexual issues, gang issues, and a girl specific program. Dream catchers is a program of tutors who assist juveniles in getting them up to grade level and into regular schools. The Gang program has a full time probation officer that works with juveniles identified as being associated with a gang or at risk of gang involvement. The Sexually Abusive Youth Program is comprised of a team of DSS, mental health, probation and SOMB individuals. They have a pre-adjudication program where juveniles can voluntarily be referred to treatment. Youth Opportunities Unlimited is a summer program targeting at-risk probation youth. They partner with Charter High School for summer school classes in the morning and YOU activities in the afternoon.
7. Ms. Sandoval expressed concerns about the negative impact of the Adam Walsh Act will have on youth. The severely mentally ill youth should not be in the criminal justice system. Also schools and SROs are criminalizing minor adolescent behavior.

Bob Coulson, Division of Child Welfare, Department of Human Services:

Mr. Colson works in the Dept. of Human Services in the Child Welfare Program. This program is concerned with "cross-system" youths.

1. The Child Welfare Program is a group of services focused on protecting the child from harm and to meet the needs of community. Its vision is a safe, healthy and stable environment. They want to have young people move from surviving to thriving regardless of issues.
2. The program takes referrals from everyone. They conduct an assessment of the juvenile. Program Area Four juveniles are youths in conflict and is the population involved in delinquency. Program Area Five are neglected youth. Program Area Six are special needs youth.
3. Child and Family Services Review is a federal mandate. How we are going to carry out services to families in Colorado? There are safety outcomes - children who have been abused and/or neglected have a 59% greater likelihood of arrest as juveniles. There are

permanency outcomes - before turning 18 they have been involved with child welfare seven times, five times with youth corrections and have eleven cross-systems experiences. There are well-being outcomes - 70% of the kids want to go to college, but only 54% finish high school.

4. How are cross-systems such as truancy being addressed? It is not uniform throughout the state. Offender studies show that raising offenders' education level lowers recidivism rates.
5. When talking to youth, you realize they have hope for their future. They need assistance. Why do youth have to do bad things to get the services they need?

John Gomez, Director, Division of Youth Corrections, Department of Human Services:

John Gomez is the Director of the Division of Youth Corrections in the Department of Human Services. DYC is not part of the adult system. The mission of the Youth Corrections is to make sure that youth does not enter into the adult system.

1. DYC's mission statement is to protect, restore, and improve public safety through a continuum of services and programs that effectively supervise juvenile offenders; promote offender accountability to victims and communities, and build skills and competencies of youth to become responsible adults.
2. They have five key strategies: To provide the right services at the right time (assessments). Services are delivered by quality staff. Use proven practices. Provide services in safe environment, and embrace restorative justice principals.
3. DYC is divided into 4 districts. Major continuums are providing detentions services, assessment, residential services and supervision after moving onto parole.
4. SB94 is funded the community based aspect of the detention system. Detention is a status, not a place. You can be at home and on detention. Not every kid comes with the same set of circumstances.
5. DYC does not control who comes in or goes out of the system. Their responsibility is to supervise the juveniles when they come into detention and make sure they are safe. The appropriate use of detention is to get kid to court. It is not effective to deter future delinquent behavior.
6. Senate Bill 94 has resulted in a flat line of data population across the state. There has not been the need to build a lot of new facilities. The implementation of the Colorado Juvenile Risk Assessment (CJRA) is being used for detention bed management and case planning.
7. Once the juvenile has been adjudicated and the decision to commit the youth, legal custody is transferred to the state. Can come is as young as at 10 or as old as age 20. The crime has to have occurred before age 18. DYC loses control of a youth after age 21.
8. DYC provides educational services. Most youth are 3 years behind in their education. Once they are in DYC they are in year-round, on-grounds classes.
9. Mandatory parole was enacted in 1996 and there is currently a 6 month minimum for all youth.
10. How do we make DYC the national model? DYC has redesigned the assessment system and strengthened its residential services. It can work on improving the transitional

services. The system should be aligned around evidence-based practices to improve individual outcomes and reduce recidivism.

11. The Continuum of Care Initiative shift up to 15% of contract residential dollars to transition services. Have the resources follow the youth.

Judge Brian Boatright, District Court Judge, 1<sup>st</sup> Judicial District:

Judge Brian Boatright began his comments by outlining a juvenile criminal case that illustrates what he commonly sees in a juvenile offender.

1. The most common themes found in a juvenile's background are that there were dependency & neglect issues and truancy. Truancy is a symptom, not a cause. We are devoting very little in the way of resources and attention to the truancy issue. He would like to have case managers working at the truancy level. What causes truancy? It is a symptom of something going wrong at home.
2. He advocated having the funding follow the child including money that would be spent as part of his/her education. After October and the school head count, he sees more truancy cases. If the student doesn't stay in school, can the money that would have gone to educating the juvenile follow the juvenile? Have to have positive role models and keep them in school.

**Wrap-up.**

Senator Gordon stated there is a financial incentive to reduce the number of juveniles in detentions. Some counties overuse the prison system. Can we provide the same incentive to the adult system? Can there be a hard cap for adult offenders?

Reggie Huerter asked what the formula used to determine the detention cap look like. Denver has such a tight cap. They are letting out high risk people because they cannot exceed the cap. The General Assembly set the cap to 479 beds. Historical usage was used in arriving at this number. From an historical perspective, there were some jurisdictions that had a high rate of incarceration. Denver had the highest rate with 20 incarcerations per 10,000 populations.

Regis Groff asked about MOR (Minority Over Representation). How could MOR not have to do with race? It has to be a factor.

**Subcommittee on Direct Files:**

Mr. Weir asked the Commission if they would like to create a subcommittee to review the issue of Direct Files: The subcommittee would have to convene relatively quickly so that any recommendations could be given to the Governor by the end of November. Mr. Kaplan suggested including a representative of the Governor's Office. Doug Wilson moved to create the Subcommittee on Direct Files. Ellen Roberts seconded the motion. No discussion. The motion passed unanimously.

Mr. Weir asked that anyone wanting to participate in the subcommittee should submit their name to his office. He anticipates there would be 4 – 6 meetings over the next couple of months.

**Next meeting:**

Paul Herman gave a brief overview of the recommendations that will be presented to the Commission for September's meeting. The September meeting will be a forum for thoughtful debate. The debate will take place on the 11<sup>th</sup> & 12<sup>th</sup> of September.

Next meeting will be Thursday and Friday, September 11<sup>th</sup> and 12<sup>th</sup>. Topics to be discussed will be the recommendations of the Oversight Committee on Re-Entry and its Task Forces. The meeting will be at the Boettcher Mansion, 900 Colorow Road, Lookout Mountain.

The meeting adjourned at 2:15 p.m.