

UTAH JUVENILE JUSTICE WORKING GROUP

July 14, 2016 Meeting Executive Summary

On July 14, 2016, the Utah Juvenile Justice Working Group met for the second time. On this occasion, the Working Group reviewed the front end of the state's juvenile justice system, from complaint through disposition. Information presented was based on national FBI juvenile arrest data, Utah data from the Court and Agencies Record Exchange system (CARE), surveys of Utah probation officers and judges, extensive document reviews of Utah specific statutes, policies, and rules, and numerous interviews with Working Group members and other system stakeholders.

Utah Juvenile Justice System Assessment

The Working Group reviewed and discussed the Utah specific data analysis showing how youth flow through the juvenile justice system at key decision points: complaint, intake, court process and adjudication, and initial disposition. The data focused on the youth's first contact with the juvenile justice system, and his or her trajectory through key decision points in the system.

Complaint: Working Group members discussed the minimal criteria which guide complaint, arrest, and referral decisions, noting that schools have significant discretion to refer a youth to court for school-based behavior like truancy. Opportunities for early intervention exist through services in the community, but some alternatives to court referrals and secure detention are not available in all parts of the state. Receiving centers, in particular, are being used less often before a youth's first intake, declining 81% from 2008 to 2015. While juvenile arrests in Utah were down approximately 33% from 2002-2012, Utah's total arrest rate is higher than the national average, a gap driven primarily by lower-level crime since Utah has lower violent crime rates and saw larger reductions in violent crime. Even so, the Working Group discussed complaint data showing that more than 200 youth are detained before their first contact with the juvenile court system, a majority of which are charged with low-level offenses and are from rural areas. The Working Group discussed how Utah does not use an assessment to determine whether a youth should be booked into detention.

Intake: At the point of intake, a preliminary inquiry is conducted by a probation officer.

Later, a probable cause analysis is conducted by probation or in tandem with the prosecutor's office (survey data showed that more than 80% of probation officers are responsible for filing petitions). The two major decisions after these initial steps are whether to file a petition and what type of petition to file. If the youth admits to the charges, probation may offer a youth a non-judicial adjustment in lieu of a petition. Though non-judicial adjustment is available to most youth, some youth may be ineligible due to certain factors like failing to admit to the crime. Additionally, there is wide variation in what local districts determine are the additional eligibility criteria for non-judicial adjustment.

The Working Group discussed that since 2008, there has been a 35% decline in youth entering intake for the first time. When examining the differences between youth who receive a non-judicial adjustment versus a petition, the primary difference in youth who receive a petition is drug charges. For those youth who do receive a petition, approximately 80% are low risk. Lastly, the Working Group discussed data showing that a higher proportion of youth who received a petition at their first intake have subsequent charges compared to youth who receive a non-judicial adjustment. This gap is primarily driven by contempt charges for petitioned youth.

Court Process and Adjudication: When examining the court processes, the Working Group discussed judicial survey data showing a lack of defense counsel appointed and present for juveniles, particularly for non-felony cases. When discussing alternatives to adjudication, Working Group members talked about plea in abeyance, which may offer a youth an alternative to formal adjudication and has advantages over non-judicial adjustment.

Furthermore, the Working Group extensively examined the use of detention for pre-adjudicated youth, highlighting that more than 400 youth are detained pre-adjudication on their first time in juvenile court. Most of these youth are further detained as part of the court process and stay 9 days on average in detention. 44% of these youth are low risk, and a higher proportion has subsequent charges than the overall population of petitioned youth. Lastly, 90% of

youth who receive a petition at their first contact with juvenile court end up adjudicated.

Initial Disposition: At the point of disposition, judges use their professional judgment to determine disposition decisions and may consider additional information like probation officer recommendations, assessments, and the youth's current offense and criminal history. The Working Group also reviewed survey data which showed that three-quarters of judges report that they always or sometimes depart from sentencing guidelines.

The Working Group examined the different disposition options, focusing on detention. Nearly two-thirds of youth receiving a detention disposition on their first adjudication are adjudicated on misdemeanor or status offenses, and nearly half of them are low risk. Nearly half of youth ordered to detention on their first adjudication have new charges within one year.

Key Takeaways: Throughout the meeting, Working Group members discussed key takeaways from this review of the juvenile system's front end processes. The key takeaways were broken down into two categories: decision-making and youth flow. Some of those key takeaways include:

Decision-making takeaways:

- Opportunities for early intervention exist through services in the community, but some alternatives to court referrals and secure detention are not available in all parts
- No assessment tools are used to inform detention decisions
- Non-judicial adjustment is available as an alternative to court processing, but is limited to certain offenses, is not required in any case, and may be an aggravating factor in future cases
- Only about one-third of judges report defense counsel is appointed for all offense types
- There are no statutory requirements regarding overall supervision length or custody disposition options, and judges often depart from sentencing guidelines

Youth flow takeaways:

- Utah's total arrest rate is higher than the national average (primarily due to low-level crime)

- More Hispanic youth enter the system than are represented in the Utah youth population
- The proportion of youth who receive a non-judicial adjustment on their first intake is declining
- There is district variation in the proportion of youth who receive a non-judicial adjustment at their first intake
- A higher proportion of misdemeanants and status offenders who receive a petition at their first intake have subsequent charges, compared to those who receive a non-judicial adjustment (subsequent contempt charges are the primary difference)
- More than 400 youth are detained pre-adjudication on their first intake (44% are low risk)
- A higher proportion of youth who receive a detention disposition for their first adjudication have subsequent charges, compared to all adjudicated youth
- Marijuana, assault and habitual truancy are 3 of the top 4 offenses that receive dispositions to detention
- Half of youth ordered to detention on their first adjudication have new charges within one year
- Many youth have more serious subsequent dispositions and spend more time under court jurisdiction before aging out, even though their offenses are not getting more serious over time

Next Steps

The next Working Group meeting will take place on August 4 at 8:30 a.m. in the Aspen Room of the Senate Building.

The Working Group is acting on the charge of state leadership to develop comprehensive policy recommendations to improve the juvenile justice system. The charge is to:

- Promote public safety and hold juvenile offenders accountable;
- Control costs, and
- Improve recidivism and other outcomes for youth, families, and communities.

These recommendations will be used as the foundation for statutory, budgetary, and administrative changes during the 2017 legislative session.