

UTAH JUVENILE JUSTICE WORKING GROUP

August 4, 2016 Meeting Executive Summary

On August 4, 2016, the Utah Juvenile Justice Working Group met for the third time. On this occasion, the Working Group reviewed the back end of the state's juvenile justice system, focusing on disposition options for youth. Information presented was based on disposition data from the Court and Agencies Record Exchange system (CARE), surveys of Utah probation officers, judges, and Juvenile Justice Services (JJS) case managers, 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 started the presentation by reviewing access to services and service options for youth in Utah. The Working Group then reviewed and discussed the Utah specific data analysis focusing on disposition options including: probation, observation & assessment, JJS detention, JJS community placement, JJS secure care, and DCFS placement from 2008-2015. System costs were also examined.

Access to Services: Working Group members discussed access to services for youth both with and without a court referral. The Working Group noted services exist to meet youths' needs in the community without a court referral, but the options and availability of services vary widely by district. A majority of probation officers and JJS case managers reported a wide range of barriers to service access to youth residing at home, including a lack of transportation and the cost to youth and their families. Data from the Pre-Screen Risk Assessment (PRSA) show that low proportions of youth entering the juvenile justice system have criminogenic needs (needs that are related to their likelihood of committing future delinquency).

Probation: Working Group members discussed the minimal criteria which guide judicial choice among intake probation, standard probation, and state supervision. There are 18 standard probation conditions included on a probation order regardless of risk or offense type, and restitution, fines, fees, and community service are additional common conditions. There is no clear statutory guidance on responses to technical violations (violations that are not a new offense).

Lastly, there is no clear statutory guidance on when and under what circumstances youth should be released from probation. An analysis of youth flow in the system revealed that probation dispositions have fallen 55% since 2008, a larger decline than the 35% drop in new intakes. Contempt charges and drug offenses are the most common offenses in the top 10 probation dispositions.

Observation & Assessment (O&A): O&A is intended to be used as a diagnostic tool according to the sentencing guidelines, but there are no statutory prerequisites which limit placement. More than half of judges report using O&A for contempt charges. Working Group members noted there is district variation in the proportional use of O&A. Additionally, contempt is the most serious offense for 45% of O&A dispositions, up from 30% in 2008.

JJS Detention: Secure detention may be used at the court's discretion for up to 30 days at each disposition; however, it is unclear if that 30-day maximum is specific to each youth, each case, or each charge, and youth who are awaiting placement could spend more than 30 days awaiting transfer. While statute prohibits the incarceration of status offenders, the court may order a status offender to detention through a subsequent finding of contempt. Data analysis showed that detention dispositions that resulted in a detention booking have decreased 32%, consistent with the decline in new intakes since 2008. 83% of youth are put in detention on non-felonies, and 43% of those are for contempt. Additionally, some districts account for a larger proportion of detention dispositions than their proportion of new intakes.

JJS Community Placement: When examining JJS community placement, the Working Group discussed the minimal criteria which guide the temporary custody transfer of youth to JJS community placement and length of stay. Nearly three-quarters of JJS case managers report needs not being met in the community as a factor guiding the placement. Youth frequently spend time in secure detention while awaiting non-secure placement. Nearly half of JJS case managers report using non-secure out-of-home placements as a response to technical violations. Data analysis showed there has been

a 47% decline in JJS community placement dispositions since 2008, larger than the decline in new intakes. More than 3/4 of JJS community placements are non-felonies. 40% of JJS community placement dispositions are for contempt.

JJS Secure Care: The Working Group discussed data and decision-making relating to JJS secure care. The court may commit a youth to secure care for any offense other than a status offense or contempt charge. While the sentencing guidelines and JJS rules indicate that secure care should be reserved for the most dangerous or chronic offenders, there are no statutory limits. Technical violations at any stage, for eligible offenses, can lead to secure care placement on a suspended order. Some judges report that the availability of services and a youth's family circumstances may factor into their secure care placement decisions. There has been a 55% decline in secure care dispositions since 2008, larger than the decline in new intakes. However, half of secure care dispositions are for misdemeanor offenses or a contempt charge on a previously suspended order. The proportion of Hispanic youth among secure care dispositions is twice as large as the proportion of Hispanic youth among new intakes.

DCFS Placement: The Working Group found that statute permits commitment to DCFS on any status or delinquency disposition without a corresponding finding of abuse, neglect, or dependency. Youth in DCFS custody exclusively for delinquency may remain there indeterminately until aging out without the statutory requirements for permanency planning afforded youth in DCFS custody for abuse, neglect, or dependency. There has been a 50% decline in DCFS custody dispositions for delinquency and status offenses since 2008. 46% of DCFS custody dispositions also have a detention disposition on the same case, and 43% of DCFS custody dispositions are for contempt. The proportion of Black youth disposed to DCFS custody for delinquency is four times as large as the proportion of Black youth among new intakes. There is substantial variation among the districts' proportion of DCFS placements, and different district variation than was observed for JJS custody dispositions.

Key Takeaways: The Working Group's key takeaways were broken down into two categories: decision-making and youth flow. Some of those key takeaways include:

Decision-making takeaways:

- Options and availability of services for youth residing at home may vary regionally, and a majority of probation officers and JJS Case Managers report barriers to service access
- All youth have 18 required standard probation conditions, and many have additional special conditions, regardless of risk level or offense type
- There is no clear statutory guidance on probation length, probation termination, or responses to technical violations
- Although sentencing guidelines intend O&A to be used solely as a diagnostic tool and not as a disposition in and of itself, statute does not limit placement
- Statute allows secure detention to be used at the court's discretion for all types of cases except status offenses
- There are no statutory guidelines for length of stay out of home for JJS community placement or DCFS placement, except for the jurisdictional age of 21

Youth flow takeaways:

- PSRA assessments show that low proportions of youth entering the juvenile justice system have criminogenic needs
- Racial disparities are present for all types of probation and custody dispositions, compared to the demographics of new intakes or the youth population
- There is substantial variation in whether judicial districts' use of O&A, detention, JJS custody, or DCFS custody is consistent with their proportion of new intakes
- The majority of probation and out-of-home dispositions are for non-felony cases
 - Contempt charges are the largest drivers of O&A, detention, JJS community placement, and DCFS dispositions
 - Youth often stay out of home longer for contempt charges than misdemeanors on average
- DCFS custody dispositions are longer than JJS community placement or secure care dispositions
- Youth put on formal probation or disposed to detention average 4 years under court

jurisdiction before aging out; youth who were sent to JJS custody or DCFS custody average more than 5 years under court jurisdiction before aging out

- While very few of the youth who are put on probation or in JJS custody started as high risk when they entered the court system, most who age out leave the system high risk
- Community supervision costs as much as \$7,500 per youth per year while JJS residential beds cost as much as \$127,750 per year

Next Steps

The next Working Group meeting will take place on September 1 at 8:30 a.m. in the Aspen Room of the Senate Building. Presentations will be given by both the Pew team and Dr. Edward Mulvey of the Western Psychiatric Institute and Clinic at the University of Pittsburgh School of Medicine.

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.