

## Minutes

Juvenile Age Subcommittee Meeting, Feb. 18, 2016  
Prepared by Professor Jessica Smith, Committee Reporter

Present: Adams, Buck, Hall, Holcombe, Lassiter, Powell, Smith, Woodall, Zogry and Commissioners McLaurin & Kemp.

The meeting opened with presentations from the Division of Juvenile Justice. Deputy Commissioner Lassiter discussed North Carolina's comprehensive strategy for juvenile delinquency. The 1<sup>st</sup> step in the strategy is preventing youth from becoming delinquent by focusing prevention programs on at risk youth and youth diverted from juvenile court. These services are provided through Juvenile Crime Prevention Councils (JCPCs) and include school, community, and some law enforcement programs. The strategy involves immediate intervention whenever there is contact with the system. As soon as contact is initiated, an assessment of risk and needs is done. Services are recommended as soon as a complaint is received. The 2<sup>nd</sup> part of the strategy is graduated sanctions combined with the continuum of treatment alternatives, including intermediate sanctions, and if necessary community confinement and training schools. The system also provides aftercare.

Maxine Evans-Armwood discussed juvenile court services, beginning with the intake process. She noted that every complaint is logged into the computer system known as NC JOIN. She noted however that not all law enforcement consultations with juvenile court counselors are logged as complaints, if the officer doesn't request that be done. The juvenile court counselor's 1<sup>st</sup> role is to determine whether the juvenile court has jurisdiction over the matter and whether the complaint is legally sufficient. In determining legal sufficiency, the counselor can get assistance from the prosecutor. Evans-Armwood noted that under the statute some offenses, such as murder and rape are non-divertable. The evaluation process includes the juvenile court counselor conducting interviews, having a conference with the juvenile and the family; there are specific timelines for action. The evaluation process includes completing risk and needs assessments. Upon questioning, she noted that evaluations can be done in the middle of the night, if necessary. She added that they always try to do interviews in person, which sometimes requires going to families who live in rural areas or have transportation problems.

The juvenile court counselors options with respect to the complaint are: close, divert (unless the offense is listed in the statute as non-divertable), or approve as a petition. Notification of the counselor's action is sent to the complainant, who is typically a law enforcement officer. Juvenile Justice is changing its procedure to require notification to the victim as well, although that is not required by the statute. On this issue, some discussion ensued about possibly amending the statute to require notice to the victim as well as the complainant.

Evans-Armwood discussed the criteria for approving complaints, including: protection of the community; seriousness of the offense; the juvenile's previous record; the juvenile's behavior at home, in school, and in the community; the juvenile and family's ability to use resources; the victim; the juvenile's age; and the juvenile's culpability. These criteria are set forth in Division policy.

Discussion ensued about the lack of access that law enforcement officers have to the juvenile record. Lassiter explained that under current law, the most that the officer can ask of the court counselor probably is whether he or she should be concerned about the juvenile. Powell clarified that under the statute the information can be shared only when a petition is filed. Commissioner Buck stated that officers need to know earlier in the process about the record in

order to make an informed decision about how to handle the situation. He stated that officers can best work with Juvenile Justice when they have all relevant information. Subcommittee Member Woodall agreed that these are every day needs on the part of law enforcement officers. He asked whether the counselor would have the information if the juvenile's interaction with the system was outside of the county. Evans-Armwood responded yes, but the counselor would not know of anything outside of North Carolina. Discussion ensued about whether the statute should be amended to allow the court counselor to share information with law enforcement officers prior to the filing of the complaint. Commissioner Kemp wondered about the policy reason for limiting officers' access to this information. Subcommittee Member Zogry responded that the statute was written before we had a database and thus some of the law is antiquated. He added however that limited access is part of a larger public policy about the confidentiality of juvenile records, though noting that it is not clear whether that policy was the driving force behind the statutory limitation of access for law enforcement officers. Lassiter added that the major reason for the statute was confidentiality, but he agreed that some changes could be made.

Getting back to the issue of the juvenile court counselor's decision with respect to how to handle the complaint, Eddie Caldwell of the North Carolina Sheriffs Association asked about how much information is provided to the complainant when he or she is notified of the counselor's decision. Evans Armwood explained that they are limited in terms of the information they can provide because of the confidentiality rules. Caldwell noted that sometimes an explanation such as "appropriate services are being utilized" creates a perception that nothing is being done, which may not be accurate. He added that more information about outcomes would be helpful.

With respect to diversion rates, Commissioner Kemp asked whether the Division sees more diversion in urban counties. Evans Armwood said yes, because those jurisdictions tend to have more resources for diversions. She then presented 2014 data on the types of complaints approved by offense class as well as closed and diverted complaints by offense class.

Evans-Armwood then provided more detail about diversion plans and contracts. She noted that the counselor can refer the juvenile to a variety of programs and/or services including, for example, restitution, community service, victim offender mediation, counseling, and teen court. The counselor monitors the plan or contract for up to 6 months. If the juvenile is successful, the complaint is closed. If the juvenile is noncompliant, the complaint can be approved for court.

She then presented data regarding the outcome of diversion plans and contracts, showing that 73% were successful. Woodall asked if these numbers could be broken down by age. Lassiter agreed to get that information.

Evans-Armwood then discussed secure a non-secure custody, including a discussion of the statutory criteria for custody and the required hearings. Zogry noted that juveniles do not have a right to bail.

Evans-Armwood discussed that court counselors are on call in every district after hours, on weekends and on holidays. She went on to discuss proceedings in a juvenile delinquency case, including probable cause hearings and transfer hearings. Adjudication and disposition was discussed, as well as supervision services. Evans-Armwood noted that the district court judge also has authority over the parent in the juvenile proceeding.

Cindy Porterfield then discussed community programs. She explained the juvenile community programs consist of the following core components: JCPC programs; statewide residential

contractual services; and statewide nonresidential contractual services. She noted that every county has a JCPC and each JCPC is required to do an annual plan. JCPC membership includes representatives from the school system, law enforcement, and many others. Gaps in services should be addressed directly with the JCPC. The services provided range on the continuum of care that relates back to the juvenile justice strategy discussed by Lassiter: preventative programs, intervention and dispositional programming, and community commitment programming. Porterfield explained the variety of community level-I and –II sanctions. Regarding funding, she explained that all 100 counties get an allocation of funds for programs based on a DSS formula, with a county tiered match.

Reporter Smith then led the subcommittee members through an engaged discussion of the following open issues:

1. *Law enforcement access to information about a juvenile's record to assist the officer in determining whether to, for example, release the juvenile to parents or seek a complaint.* After extended discussion, law enforcement's legitimate interest in this information was acknowledged and Reporter Smith was directed to investigate ways that this could be accomplished.
2. *Use of juvenile records for persons who enter the adult system as "career offenders" in the juvenile system.* After some discussion, it was determined that this interest could be fully satisfied if district attorneys had an easy way to gain access to juvenile records to help make decisions about charging, plea negotiations, etc. in adult criminal prosecutions. Although the statute already allows the district attorney to get this information, it is not easily accessible. Reporter Smith was directed to research options and report back.
3. *Victim's lack of right to appeal a juvenile court counselor's decision to dismiss or divert a complaint.* It was agreed that the statute should be amended to allow for this and that a recommendation to this effect should be included in the Committee's report.
4. *Concern by law enforcement that if juvenile court counselors are not logging all contacts by law enforcement, Juvenile Justice data is understating the extent of juvenile issues.* Specifically, a concern was raised about logging contacts when an officer calls a juvenile court counselor and a complaint does not result. Lassiter indicated that this could be addressed. Reporter Smith will follow up on the details.
5. *Dealing with violent crimes within the context of a raise the age proposal.* The draft document considered by Subcommittee Members suggested that all offenses other than a to-be-specified set of violent felonies would originate in juvenile court. However, after discussion Subcommittee Members agreed that it would be best to have all crimes, other than motor vehicle offenses, originate in juvenile court, provided that the prosecutor has an automatic right to bind over Class A-E felonies and common law robbery to Superior Court, without the district court judge's approval. Reporter Smith will modify the report to reflect this revised strategy.
6. *Reverse transfer of cases from criminal court to juvenile court.* After discussion it was agreed that reverse transfer should be allowed at the prosecutor's discretion. Reporter Smith will modify the report to reflect this decision.
7. *Economic impact on North Carolina.* Some Subcommittee members had questions about the details of the cost-benefit analyses that had been previously done for North Carolina. It was agreed that these questions should be addressed. Additionally some members asked for prior fiscal notes prepared in connection with earlier bills. Reporter Smith will seek to gather relevant information for Subcommittee members.
8. *More information to the victim and complainant regarding the services provided in diverted cases.* It was agreed that it would be best if more information was provided to

victims and complainants. Juvenile Justice agreed to examine the relevant law and report back on whether additional details can be provided.

9. *Education and resources for law enforcement officers about juvenile proceedings.* During discussion it became apparent that law enforcement officers have few tools to help them understand the juvenile justice process and what their options are when dealing with potentially delinquent youth. There was some interest exploring ways to provide education for and resources to law enforcement officers. Reporter Smith will consult with others and report back on options to address this concern.