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SJR 6: A Primer

Background and Study Approach for the Study of the Juvenile Justice System

A REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE

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Legislative Services Division

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Background and Study Approach for the Study of the Juvenile Justice System

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for the
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Purpose

This paper provides background for the Senate Joint Resolution No. 6 (SJR 6) study of Montana's juvenile justice system and outlines a basic study approach for discussion, revision, and approval by the Law and Justice Interim Committee (LJIC).

A multi-faceted system

Juvenile justice does not involve a self-contained system governed by a single entity's vision or strategic plan. Rather, juvenile justice involves a mix of decisionmakers, stakeholders, and service providers. The system encompasses federal, state, and local public and private entities and all three branches of government. Nevertheless, to undertake a study such as requested by SJR 6, it is important to take a systematic approach.

System components

The juvenile justice system is one of four major publicly-funded systems that provide services affecting juveniles--education, juvenile justice, child welfare, and mental health. The boundaries between these systems are "semi-porous".[1]

The juvenile justice system itself can be divided into two subsystems: the court system and the

[1] Schwartz, Robert G., "Opportunities for Juvenile Justice Reform" prepared for the William T. Grant Forum on Reforming Publicly Funded Youth Systems, March 2003.

service delivery system. Components of these two subsystems include:

(1) arrest or referral;

(2) intake and detention;

(3) adjudication;

(4) disposition and placement;

(5) release, disposition review, and re-entry.

These components also represents junctures within the juvenile justice pipeline where decisions are made about how a youth will travel through the system.

Policy development and guiding principles

Policy guides decisions. In the early 90's, policy was aimed at accountability. State legislation made it easier to try youths as adults and the enforcement of zero tolerance policies resulted in more youth entering the juvenile justice system.

By the late 1990's, in an effort to balance the goals of rehabilitation (perceived by some as "too soft") and accountability (perceived by some as "too tough") restorative justice became the guiding policy principle. As the idea of restorative justice gained momentum, policymakers focused on restorative programs, such as victim-offender mediation and community-based diversion programs.

Today, the juvenile justice community is recognizing that a full-range (i.e., a continuum) of services are need to meet the challenges and there is a re-emphasize on the three policy principles that form the core of a balanced juvenile justice system:

- community safety;
- accountability; and
- competency development.[2]

Furthermore, there is agreement on all "sides" that youth are developmentally different that adults, that juveniles present unique challenges for the justice system, and that the referral,

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[2] Harp, Caren and Delaney, John, "Spotlight on: Guiding Principles for Prosecution of Juvenile Crime", *In Re...* Vol. V., No. 1, 2002. Posted on the National District Attorneys Association website at http://www.ndaa-apri.org/publications/newsletters.

adjudication, detention, and disposition, of juveniles must be handled on a case-by-case basis in a manner that recognizes these differences and unique challenges.[3]

National trend data on juvenile offenses

Data presented in a 2006 national report on juvenile offenders and victims indicates the following national trends:

- Generally, juvenile violent crime has decreased to its lowest rate since 1970.
- Violent crime (especially assault) by female juveniles has increased.
- Gang-related crime has declined in nonurban areas.
- Self-reported drug and alcohol use has generally declined or stabilized.
- Formal (as opposed to informal) handling of cases by youth courts has increased.
- The number of juvenile cases forwarded to adult criminal courts has decreased.
- The number of juveniles in youth corrections facilities is declining, though crowding is still a problem in a significant number of facilities.[4]

With respect to juvenile offenders and mental health, the data is alarming. As noted in the HJR 26 primer, several studies indicate that between 50% and 75% of juveniles in juvenile detention facilities have at least one mental illness.[5]

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[3]American Bar Association, "Youth in the Criminal Justice System", *Guidelines*, Feb. 2002.

[4] Snyder, Howard N. and Sickmund, Melissa, *Juvenile Offenders and Victims: 2006 National Report,* U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2006.

[5] National Mental Health Association, "Prevalence of Mental Disorders Among Children in the Juvenile Justice System", Fact Sheet, http://www1.nmha.org/children/justjuv/prevalence.cfm.

Montana context

Trends

According to 2004 data:

- Aggravated assault, weapon law violations, and sexual assault are the most frequent juvenile violent offenses.

- Larceny, simple assault, and vandalism is the most frequent non-violent offenses.

- Male juvenile involvement in the juvenile justice system has been declining, while female juvenile involvement has been relatively static.

- The number of American Indians in the juvenile justice system has been relatively static.

- Most juveniles in the system are between 15 and 17 years old.

- The number of female juveniles in detention has increased slightly.[6]

Strategic planning and federal block grant programs

The Youth Justice Council, which is appointed by the governor to administer federal block-grant funds allocated to Montana, is required by federal law to use the block grant money to support four objectives:

- deinstitutionalization of status offenders and non-offenders;
- elimination of detention or confinement of juveniles in adult jails or lockups;
- sight and sound separation of juveniles from adults in secure facilities; and
- reduction of the disproportionate minority contact.[7]

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[6] Montana Board of Crime Control, *Montana 3-Year Juvenile Justice Plan: 2006-2008,* Youth Justice Council, pp. 9-12.

[7] Montana Board of Crime Control, "Youth Justice Advisory Council's Report to the Governor and Montana State Legislature", 2006, Youth Justice Council, available online at http://mbcc.mt.gov/JuvenileJustice/JJPublications/%2706annualgovreport.pdf

To carry out its mandate, after assessing needs, the Youth Justice Council set the following three policy priorities (listed in order of priority):

(1) Prevention

(2) Intervention

(3) Accountability

The court system

The juvenile justice court system in Montana is governed by the Youth Court Act, codified in Title 41, chapter 5, of the Montana Code Annotated (MCA). Section 41-5-102, MCA, states the policy principles intended to guide how the Youth Court Act is interpreted and applied. The section reads as follows:

> **41-5-102. Declaration of purpose.** The Montana Youth Court Act must be interpreted and construed to effectuate the following express legislative purposes:
>
> (1) to preserve the unity and welfare of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of a youth coming within the provisions of the Montana Youth Court Act;
>
> (2) to prevent and reduce youth delinquency through a system that does not seek retribution but that provides:
>
> (a) immediate, consistent, enforceable, and avoidable consequences of youths' actions;
>
> (b) a program of supervision, care, rehabilitation, detention, competency development, and community protection for youth before they become adult offenders;
>
> (c) in appropriate cases, restitution as ordered by the youth court; and
>
> (d) that, whenever removal from the home is necessary, the youth is entitled to maintain ethnic, cultural, or religious heritage whenever appropriate;
>
> (3) to achieve the purposes of subsections (1) and (2) in a family environment whenever possible, separating the youth from the parents only when necessary for the welfare of the youth or for the safety and protection of the community;
>
> (4) to provide judicial procedures in which the parties are ensured a fair, accurate hearing and recognition and enforcement of their constitutional and statutory rights.

Each of Montana's 22 judicial districts operates a Youth Court. About 75% of Youth Court cases are handled through informal processes provided for under the Youth Court Act. Only 25% of the cases involve charges being filed by the county attorney.

The Montana Supreme Court's "Youth Court At-A-Glance" report for July 2005 through June 2006, provides further detail about:

- referrals;
- offenses;
- dispositions; and
- demographics.

In her introduction to the report, Chief Justice Karla Gray states that the primary goals of the youth courts are to hold youth accountable, reduce the number of juveniles who re-offend by providing for skill development, and to increase public safety. Chief Justice Gray also notes that the judicial branch has instituted major statewide improvements to make youth court processes more consistent and uniform, while still providing courts with flexibility to do what is best for each youth.

Juvenile corrections

In Montana, juvenile corrections is handled by the Youth Services Division of the Department of Corrections. The division consists of three bureaus as follows:

- Pine Hills Youth Correctional Facility - 120-bed secure care facility for males;
- Riverside Youth Correctional Facility - a 20-bed secure care facility for females; and
- Youth Community Corrections - handling parole, aftercare, and other community-based components of juvenile corrections

Further detail on the Youth Services Division is available in the Montana Department of Corrections 2007 Biennial Report. According to the report, the Division's recent focus and accomplishments include:

- improved community-based services, including more American Indian cultural focus in re-entry programs, changing the focus of youth transition centers to providing alternative sanctions, and expanding youth guide homes and mentoring;

- enhanced educational opportunities in the correctional facilities; and

- chemical dependency and sex offender treatment.

Senate Joint Resolution No. 6

Testimony and rationale

Testimony supporting SJR 6 pointed to the need for a comprehensive study of the juvenile justice system to educate policymakers and support strategic planning. Sen. Trudi Schmidt (D-Great Falls), the resolution's sponsor, noted that the last comprehensive legislative study of juvenile justice was during the 1995-1996 interim. Mr. Steve Gibson, Administrator of the Youth Services Division under the Department of Corrections testified as a proponent for the study.

The resolution's preamble notes that the study is needed "to determine the most objective and fair treatment of youth" and is "because of [the system's] complexities".

Study tasks

Senate Joint Resolution No. 6 outlines the following study tasks:

- identify gaps and overlaps in services provided by various entities;
- propose any needed statutory changes to the Youth Court Act;
- assess evaluation, treatment of youth in the system;
- assess graduated sanctions and probation violations;
- identify options for improving transition between youth to adult corrections; and
- examine early intervention and treatment options.

The resolution envisions the use of public hearings, panel discussions, and working groups and involve representatives of:

- the Office of Court Administrator;
- juvenile probation;
- juvenile detention;
- the Department of Corrections;
- juvenile parole;
- the Board of Crime Control;
- the Youth Justice Council;
- school districts;

- tribal and local governments;
- county attorneys;
- the public defender system;
- law enforcement;
- the mental health profession;
- addictive and mental disorders (Department of Public Health and Human Services);
- child and family services (DPHHS); and
- youth and parents currently or previously involved in the system.

Overlap HJR 26

The HJR 26 study tasks overlap the SJR 6 study in the area of mental health treatment for juvenile offenders.

Work plan approach

The draft work plan proposes that 25% of the LJIC's time and effort be spent on the SJR 6. Staff proposes that the work plan reflect the following timeline and agenda topics:

Meeting #3	November	Youth Courts, Youth Court Act, adjudication and disposition
Meeting #4	January	Arrest or referral, intake, and detention
Meeting #5	February	Assessment, evaluation, and treatment (including mental health)
Meeting #6	April	Release, disposition review, and re-entry
Meeting #7	June	Findings and recommendations
Meeting #8	August	Finalize work