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# Youth Justice Oversight Committee

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## Minutes from June 14, 2023 Meeting

The Youth Justice Oversight Committee (YJOC) met on June 14, 2023, from 10:00 a.m.-11:30 a.m. at the Indiana Government Center South, Conference Room B. Retired Justice Steven David chaired the meeting.

1. **Members present.** The following members of the Committee were present in person:
  - Steven David, Chair
  - Dr. Matthew Aalsma
  - Judge Vicki Carmichael, Clark Circuit Court 4
  - Shannon Chambers, Johnson County Probation
  - Terrie Decker, Indiana Department of Correction
  - Judge Darrin Dolehanty, Wayne Superior Court 3
  - Tracy Fitz, Indiana Prosecuting Attorneys Council
  - Magistrate Carolyn Foley, Allen Superior Court
  - Judge Faith Graham, Tippecanoe Superior Court 3
  - Mary Kay Hudson, Indiana Office of Court Services
  - Devon McDonald, Indiana Criminal Justice Institute
  - Eric Miller, Department of Child Services
  - Nichole Phillips, Bartholomew County Probation, and the Probation Officers Professional Association of Indiana
  - Nancy Wever, Indiana Office of Court Services, Juvenile Detention Alternatives Initiative
  - Joel Wieneke, Indiana Public Defender Council
  
2. **Members who attended the meeting via Zoom:** Stephen Balko, Judge Marshelle Broadwell, James Wilson
  
3. **Members absent:** Serrilla Blackmon, Kia Wright
  
4. **Staff:** Leslie Dunn, Nick Parker, Michelle Goodman, April Dubree, Joseph Fischer, Lisa Thompson, Chris Biehn and Mindy Pickett from the Office of Judicial Administration attended. Mark Fairchild and Blane Cook from the Commission on Improving the Status of Children (CISC) attended.
  
5. **Welcome and Introductions.** Justice David welcomed members and shared that Representative Wendy McNamara was on Zoom and wanted to speak to the members. Representative McNamara thanked everyone for their hard work on a short timeline and said she is looking forward to seeing outcomes over the next several years. Senator Crider also joined via Zoom to express his appreciation and noted the significant progress made. He looks forward to continuing to work together and hopes there are more opportunities to improve juvenile justice through

legislation. Justice David stated that he is writing a cover letter for the report and if anyone has any suggestions of things to be included, please let him know. Justice David noted that YJOC will continue after the reports are filed. Leslie Dunn will be sending out a survey to ask members if they would like to continue to serve on the YJOC and its workgroups. Justice David also thanked members for their hard work.

6. **Approval of Minutes from the May 10, 2023 Meeting.** Committee members received a copy of the minutes prior to today's meeting. Magistrate Foley made a motion to approve the minutes as written; Shannon Chambers seconded the motion. A vote was taken and Committee members unanimously approved the May 10, 2023 Meeting Minutes.
7. **Transitional Services Workgroup Presentation.** A revised transitional services score card was provided to members. At the last meeting, the committee tabled the recommendations from the Transitional Services Report. The workgroup met again after the YJOC meeting to discuss whether they wanted to make any changes to the recommendations; every workgroup member except one voted to keep the recommendations the same. Workgroup members feel that someone needs to stay involved in these kids' lives because they lose contact with everyone who they were working with (GAL, probation, etc.) when they go to DOC. The workgroup was charged with developing a better plan so this is what they feel should happen. Justice David asked for a motion to accept the recommendations for discussion. Terrie Decker made a motion to accept the recommendations and Nichole Phillips seconded the motion.
  - a. **Recommendation #1.** Terrie Decker stated that recommendation #1 allows for greater oversight of DYS youth by having the court maintain jurisdiction over the case. Justice David has had conversations with several juvenile judges and others on this issue. This would broaden the law through a statutory amendment. The recommendation is broad but there will need to be additional details crafted as to what the language of the legislation should be. The judges understand that there are young people coming out of DOC who can benefit from transitional services; however, there must be a re-acquiring of juvenile jurisdiction. How do we go forward? This is a great opportunity for us to work together to fashion legislation to give DOC greater flexibility in the use of transitional services funds and give DOC an opportunity to identify youth who could benefit from these services. This will lead to better communication with trial judges on how those services can be provided. Issues regarding trial courts having jurisdiction when a case is appealed also have to be addressed. Some judges feel they have exhausted all programs and services in their county and believe the youth do not have any desire for further services. Some counties/judges do not send many youth to DOC and do not know what services are available upon release from DOC. How can this be shaped so all stakeholders are pleased with the outcome? Whatever it looks like, we need to educate people and develop implementation processes.

Judge Broadwell would like a better idea of what the judicial involvement would look like and what the scope of the court's role is. Terrie Decker clarified this recommendation is not to resume jurisdiction but rather that courts keep jurisdiction throughout the youth's stay at DOC. The Transitional Services Workgroup would like the courts to be involved from beginning to end; the courts would have the option to hold review hearings, DOC would provide updates to the court and there would be an opportunity for the youth to talk to the judge. Youth would be able to continue working with their public defenders, CASA and DCS. Most youth only stay in DOC for 9 months so there would likely only be one review hearing.

Judge Graham notes that right now, courts already have discretion to re-assert jurisdiction if needed. Why do they need jurisdiction for kids to get transitional services? Is court oversight really necessary? She expresses concern that broadening the law to keep jurisdiction makes it mandatory in every case and takes away judicial discretion. Also, how would this work with two entities (courts and DOC) overseeing the kids? The court would want to be responsible for overseeing the youth and deciding what should happen rather than DOC telling the court what should happen. It is problematic as to who is in charge of the youth. She understands the youth coming back to court if DOC wants to release the youth and there is no one to release to, but the law says DCS must step in then. Other than that, she does not want to bring the youth back into the delinquency system again on probation as that is moving backwards. Judge Broadwell shares these concerns.

Mary Kay Hudson understands the concerns as to what this would look like. The Data Workgroup is planning pilots in five counties to do a process evaluation as to what counties are doing and how they are doing it. Analyzing transitional service systems could be a component of the pilots. Which courts are resuming jurisdiction and why, what is working and what are the challenges? We need further discussion and study of concurrent jurisdiction and how that would work. Where can we provide support to youth that may not rise to the level of the court re-assuming jurisdiction? It is very complicated, and it is important to study this before committing to what future legislation would look like.

Joel Wieneke stated that a court retaining jurisdiction throughout DOC placement is not significantly different from a court retaining jurisdiction throughout a residential placement. And due to a shortage of placements, it is hard for parents to get kids into residential placements, especially if the youth has been in DOC. Some youth are 18 or almost 18 which creates more reluctance for providers to get involved. He thinks a collaborative jurisdictional setting would be like a youth in residential placement: the court does not manage the day-to-day issues or critically evaluate the treatment plan; the residential facility has that discretion. He thinks it would operate in a similar way-DOC would be in charge of the day-to-day behavior and the treatment plan. He does think the judge should stay involved as to what is going on with the youth. How is what is happening in DOC going to impact the ability to rehabilitate the youth? It is a catch twenty-two for public defenders because the families and youth may not want it but there are times when it would be beneficial for the court to stay involved. He also does not want over-prosecution when the youth are released from DOC. He agrees with limiting heavy-handed probation (youth tests positive for THC and has to go back to DOC) but he sees the benefit of dual jurisdiction.

Tracy Fitz noted that Marion County has had several cases in which the court has resumed jurisdiction. She recognizes there are cases where it would help but it is not needed in every case. She has concerns about dual jurisdiction and believes it could raise other problems. It could become a continual modification hearing. There are other paths such as probation meeting with DOC ahead of time to discuss what the youth needs and whether to request the court should re-assume jurisdiction and whether the court has a role in the transitional services. She was also concerned about more trauma to victims with more hearings and how that would impact them. She thinks there is a way to improve but not like this.

Judge Vicki Carmichael said she sends kids to DOC but it is always a last resort when she has exhausted everything in her community. This could become a perpetual modification hearing with the court having no discretion to tell DOC what to do. She struggles with several of these recommendations because they have already exhausted all their community resources at that point.

Magistrate Foley said it will help some kids, but not every kid. If the youth is getting in fights at DOC and struggling with behavior, she has no authority to do anything other than reiterate what DOC is saying. What can the court do? Other than being a cheerleader, what is the benefit of the hearing? An option might be for DOC to send a report (prior to release) advising the committing judge that additional support and services are needed. Give the courts a heads up so they can consider reasserting jurisdiction.

James Wilson noted that the reality of transition back into the community is complicated and DOC and the courts need to work together to identify the programs and services available to assist the youth. We need to look at how to stabilize the individual all around such as education, housing and basic needs. We would keep the courts involved to work with organizations and agencies in the community that the youth is returning to and utilize a wraparound approach.

Justice David suggested considering a friendly amendment. We can't get bogged down in what the legislation may look like and we need to focus on what we are trying to accomplish: Enhancing the opportunities for youth leaving DOC to receive appropriate transitional services. There are several models possible and whether it needs to be piloted or not or we need a change in the law or not, we all agree on what we need to do for youth. He would prefer to have a recommendation that everyone can support. Devon McDonald stated that to apply for grants, counties will have to have a collaboration plan. Nothing would prevent counties from applying for grants to be used for transitional services. He suggests adding language to the grants requiring a plan to address the need for transitional services.

Judge Carmichael suggested that rather than amending the statute to say the court retains jurisdiction, why don't you amend the statute to say that the court will have a hearing prior to the youth's release? This addresses the issues of every court considering what is needed. Judge Broadwell does not agree with a mandatory hearing in every case. It is another appointment for the family and leads to more stress for them. If it is appropriate and the court has received information that indicates a need to have a hearing to address specific issues, then a hearing can be set, but it is not needed in every case.

Justice David states that we need to vote on the recommendation. A vote was held and six members were in favor of the recommendation and nine opposed it. James Wilson and Justice David abstain. Recommendation #1 does not pass.

- b. Recommendation #2.** Nancy Wever would like clarification on the wording and whether it means that transitional services must be provided with DCS as the funding source. Terrie Decker said no, there are no restrictions on where the funds come from. Judge Dolehanty asks what this looks like and when does it happen? He does not see how it will work. Terrie Decker is not sure we can do recommendation #2 without recommendation #1. Terrie Decker clarified that DOC can only provide services to youth who are on parole; only local courts and probation can provide services otherwise. Discharged kids

get nothing. Judge Graham asks if all kids could be released on parole. Terrie Decker responded no, not without a large increase in staff. Terrie Decker states that this recommendation is moot given the failure of the first recommendation. Terrie Decker withdrew Recommendation #2.

- c. **Recommendation #3.** Judge Graham liked the idea of doing this without a requirement that the court re-assume jurisdiction every time. She wants kids connected to services without being on parole or probation. Terrie Decker would like to have more of us working collaboratively to make this happen. Terrie notes that youth who leave with the option to do services, with no oversight, do not follow up with providers. The reality is that most people do not understand what happens and how kids flow out of the system. Shannon Chambers stated that kids need something when released or they will recidivate because they do not have the same structure in the community that they had in DOC. Parents often do not engage or participate while kids are in DOC. She suggests we go back to Justice David's compromise amendment.

Justice David stated that his amendment was to state that we want to enhance the opportunity for youth released from DOC to receive appropriate transitional services. James Wilson asks how we identify those services. How do we build the resources that are lacking in some counties? He is not seeing the flow. We have to work collectively from incarceration to release with all the community partners. Case management during incarceration is key and the connection to community organizations.

Judge Graham made a motion to combine recommendations 1, 2 and 3 to say that youth justice stakeholders will work together to enhance opportunities for all youth released from DYS to receive appropriate community-based transitional services or Transition from Restrictive Placement (TRP) services as defined by DCS standards. A vote was taken on the motion and all members voted in favor of this language, no abstentions.

Mary Kay Hudson stated that the next question is, by what process? How do we get there? We need to study this. She suggested the Data Workgroup conduct a pilot project to identify the processes by which we can do this. The counties will ask for a framework to work from and we can create that with this pilot. Justice David agrees and states that we may not need a legislative fix; we want to get it done right, not fast.

- d. **Recommendation #4.** This recommendation was reviewed and approved unanimously, with no abstentions.
- e. **Recommendation #5.** Tracy Fitz asked if the recommendation is saying that all three of the factors have to be in place or if this should be an OR (not an AND). Terrie Decker said that it is an AND. Joel Wieneke believed it reads as if it is only applicable when a youth is on probation—it is only applicable as to what would qualify for re-commitment to DOC. Probation only comes into play after they come out of DOC. Judge Graham noted that if courts are not resuming jurisdiction, there is nothing to violate; she states that if the court does have jurisdiction this limits judicial discretion. Mary Kay Hudson stated that the recommendation is ambiguous; is this suggesting statutory language or a best practice? Is it a training and technical assistance issue? Justice David reads it as a best practice and as an OR. Judge Dolehanty asked if legislators will read it that way or if they will think it needs to be a law. Justice David said we can minimize this concern by stating that this should be accomplished through education and training. Magistrate Foley shared that the proposed juvenile probation standards indicate that the nature of the

violations should be considered when making the decision; so, do we need this? Judge Carmichael suggested we call it a best practice and proposed an amendment to change the AND to an OR. Shannon Chambers seconded the motion. Justice David added that it also needs to include language about it being “upon consideration of recommitment” so that is clear. With this amendment, a vote was taken and the amended recommendation passed, with one vote in opposition. There were no abstentions.

- f. Recommendation #6.** Votes are taken and this recommendation passes unanimously, no abstentions.
  - g. Recommendation #7.** Devon McDonald asked who would be monitoring this? Is it the Indiana Criminal Justice Institute? He notes that if these are through the grants, ICJI will get all the data and can pass that along. Tracy Fitz asked which grant funds we are talking about. Devon states that it is the community alternative grants. Nichole Phillips noted that the report states that YJOC should monitor. Mary Kay Hudson stated that the Data Workgroup could receive that information for best practices and grant purposes. Judge Dolehanty was concerned with the “all models must include mentorship” language; people may seek great grant programs and cannot participate if it does not have a mentorship component. He noted that most DOC commitments are from large counties, not rural communities; this would be for a very small number of youth, so it doesn’t make sense for a recommendation. James Wilson noted that all organizations have a mentoring piece; it is not difficult to take that on. He does not want to minimize the smaller counties but notes that smaller counties may not need that big of a budget. Judge Graham made a motion to amend this recommendation to change “monitored” to “evaluated for effectiveness” and then delete the very last sentence. Nancy Wever seconded the amendment. The amended recommendation was approved unanimously with no abstentions.
  - h. Recommendation #8.** Judge Dolehanty thinks this is the best recommendation because he hears this a lot; kids can be committed because there was nothing else to do for that youth. This would require us to find other places for these kids. Judge Graham asked if we are going to amend that to study other things? Mary Kay recommended that they be separate. The recommendation passed unanimously with no abstentions.
  - i. Recommendation #9.** No discussion. A vote was taken and it passed unanimously with no abstentions.
  - j. Recommendation #10.** Justice David noted that he was not sure if we need this recommendation, and he asked for thoughts and if Terrie Decker wants to withdraw it? Terrie withdrew this recommendation.
- 8. Screening and Assessment Workgroup Presentation.** There was one recommendation, recommendation #3, that YJOC did not vote on last time and the workgroup was asked to reconsider the language. Shannon Chambers stated that the workgroup went back and reviewed the recommendation and the feedback given at the last YJOC meeting, and they decided to adopt the language from the Indiana Code so their recommendation is aligned exactly with the statute. The revised recommendation proposed by the workgroup passed unanimously, with no abstentions.

**9. Next Steps.** Justice David stated that this is not the end. He reiterated that members should reach out if they had any further thoughts for his cover letter. He thanked everyone again for the many years of hard work and stated that it demonstrates how cooperative we all are that all branches of government, representing different agencies and interests could come together to accomplish this important work.

**10. Next Meeting.** The next meeting is not scheduled at this time.