

**Final**  
**STAFF SUMMARY OF MEETING**  
**JUVENILE DEFENSE ATTORNEY**

Date: 09/25/2013

ATTENDANCE

Time: **09:03 AM to 04:15 PM**

Place: HCR 0112

This Meeting was called to order by  
Representative Levy

This Report was prepared by  
Kerry White

Brant	X
Brodhead	E
Brown	X
Dvorchak	X
Giron	E
Harvey	*
Jessel	E
Kagan	*
Koppes Conway	X
Lee	*
Lilgerose	*
Marble	*
Martin	X
Navarro	*
Smith	X
Ulibarri	E
Weinerman	X
Wright	X
Guzman	X
Levy	X

X = Present, E = Excused, A = Absent, \* = Present after roll call

Bills Addressed:	Action Taken:
Opening Comments	Witness Testimony and/or Committee Discussion Only
Opening Remarks on Juvenile Defense Models	Witness Testimony and/or Committee Discussion Only
Juvenile Defense Models in Other States	Witness Testimony and/or Committee Discussion Only
Presentations from Parents and Children	Witness Testimony and/or Committee Discussion Only
Colorado Juvenile Defender Coalition Research	Witness Testimony and/or Committee Discussion Only
Overview of Truancy Proceedings	Witness Testimony and/or Committee Discussion Only
Process for Requesting and Finalizing Bill Drafts	Witness Testimony and/or Committee Discussion Only
Discussion of Potential Legislation	Witness Testimony and/or Committee Discussion Only
Public Testimony	Witness Testimony and/or Committee Discussion Only

**09:06 AM -- Opening Comments**

Representative Levy called the meeting to order and reminded committee members to please contact her in advance if they will be late or absent.

**09:06 AM -- Opening Remarks on Juvenile Defense Models**

Sarah Brown introduced herself as a representative of the National Conference of State Legislatures (NCSL). She provided a brief overview of juvenile justice from a national perspective, referencing the "Trends in Juvenile Justice State Legislation 2001-2011" publication (Attachment A). Ms. Brown said that over the past 20 years, juvenile crime rates have been on a steady decline. She continued by discussing some of the factors that have prompted changes in state approaches to juvenile justice, such as advances in the knowledge of neurobiology and fiscal challenges. Ms. Brown reviewed the MacArthur Foundation's "Models for Change" initiative and its launch of new resource centers. She concluded her comments with a review of the services available through NCSL, including a juvenile justice bill tracking database.

**09:17 AM -- Juvenile Defense Models in Other States**

Josh Dohan, director of the Massachusetts Youth Advocacy Division, came to the table and introduced himself. He distributed a handout of his presentation (Attachment B) and a publication called Community Notebook: Education Edition, prepared by the Youth Advocacy Department and the Children's Law Center of Massachusetts (Attachment C). He discussed Massachusetts' perspective and history in terms of systems challenges. Mr. Dohan said the stakes are high for youth involved in the juvenile justice system, which is complicated and requires that defense counsel engage the family, as well as have knowledge of other systems, such as the welfare system, mental health challenges for youth, and the school system.

**09:27 AM**

According to Mr. Dohan, Massachusetts decided they needed leadership, training, support, and oversight for their attorneys in a central office. He review the certification process for attorneys to be permitted to practice juvenile defense and the structure of the central office. He said the state follows the practice of "zealous legal advocacy," which means following the wishes of the client.

Representative Kagan asked for clarification on the roles of the trial panel (contract attorneys) and whether this was due to conflicts. Mr. Dohan said offices handle 25 percent of cases and the trial panel handles 75 percent of cases. He said two years ago, 90 percent of cases were handled by the trial panel and members are paid about \$50 per hour. Representative Levy asked whether geography also plays into the allocation of cases between the offices and the trial panel. Mr. Dohan responded that it may be a factor, but if it is, it is not a predominate one.

Mr. Dohan continued his discussion with the topic of the positive youth development model. He reviewed the model and its origins, noting that this is a holistic approach or framework that is premised on recognizing that many defendants need mental health or substance abuse counseling or housing, among other needs, and having access to these services lead to a better long-term outcome. Mr. Dohan explained that the current system in Massachusetts is moving towards a rehabilitative and developmental focus, which is a shift from the punitive focus practiced nationally.

**09:41 AM**

At Representative Levy's request, Mr. Dohan described the integration of defense attorney and zealous advocacy in the Massachusetts model, noting that it has almost a social worker aspect. According to Mr. Dohan, this enables the defense attorney to build trust, which leads to better decision-making.

Judge Smith commented that magistrates and judges are the gatekeepers of the waiver process and asked how Massachusetts handles waivers. Mr. Dohan responded that, in Massachusetts, most judges do not like children to proceed without an attorney and said that many judges have self-selected to serve the juvenile docket. Senator Harvey asked about the role of specialization. Mr. Dohan replied that if the judges aren't specialists, it is important that the defense attorneys are. Senator Guzman asked about salaries for public defenders and whether Massachusetts has a divide between rural and urban areas. Mr. Dohan said the salaries are essentially equally poor, but the state has benefitted from requiring only experienced attorneys to be appointed to serve as juvenile defenders. Mr. Dohan said there are fewer attorneys in rural areas, but generally this translates to having attorneys who are experienced with the adult criminal system, rather than having no criminal experience.

Benita Martin asked about sentencing options in Massachusetts and how long public defenders remain involved with their clients. Mr. Dohan replied that this is an area of weakness for his state because there is no right to counsel following the classification process during commitment.

**09:54 AM**

Mr. Dohan concluded his presentation and Josh Perry, executive director of the Louisiana Center for Children's Rights came to the table to introduce himself. Mr. Perry distributed a copy of his presentation (Attachment D) and began by describing the role of his office as a nonprofit contracted to provide juvenile defense in New Orleans Parish. Mr. Perry reviewed the history of juvenile justice in Louisiana, noting that many of the state's changes were the result of an assessment completed in 2001 by the National Juvenile Defender Center (NJDC). Mr. Perry explained that Louisiana has made three significant changes since that assessment. He said that Louisiana now presumes indigency for all juveniles, attaches the right of counsel at the first appearance, and restricts the capacity of a juvenile to waive counsel. According to Mr. Perry, a court cannot accept a waiver when the mental health of the juvenile is at issue, when the juvenile is accused of a felony, or during a probation or parole revocation hearing. Mr. Perry said that the waiver rate in New Orleans is essentially zero and the rate is in the low single digits statewide.

**10:08 AM**

Mr. Perry discussed the model of his office, which also uses a positive youth development approach. He reviewed this model in detail, discussing how advocacy, assessment, case planning, referral and case management are interrelated components of a system that functions well. According to Mr. Perry, this model has resulted in savings for the state, reduced delinquency arrests, and declining average daily population rates for secure custody facilities.

**10:20 AM**

Magistrate Koppes-Conway asked how Louisiana deals with advocacy in other places, such as in schools. Mr. Perry responded that there is no formal guardian ad litem system in Louisiana, so this role is performed by social workers and youth advocates because most disciplinary hearings do not require an attorney.

Representative Kagan asked about the practices in rural areas. Mr. Perry said that the model he has described works well in New Orleans, but noted that each parish is different and has access to different resources, which may be constrained. Mr. Perry suggested that having regional offices, rather than district offices, may help for resource sharing. Frances Brown said Colorado's structure is regional rather than district-based and asked Mr. Perry to comment on whether any of Louisiana's model could be applied to Colorado. Mr. Perry replied that specialization, training, independence, and a positive youth development approach are key.

Linda Weinerman asked about the intersection of juvenile justice and the child welfare system in Louisiana. Mr. Perry said there is an enormous amount of crossover.

Representative Levy asked about presumption of indigence and whether it is rebuttable in Louisiana. Mr. Perry said it is, but he's never seen it rebutted in practice. He explained that indigence criteria in Louisiana is set in statute as 200 percent of the federal poverty level. He said that if there is a parental conflict, the court automatically appoints counsel.

Judge Smith asked how Mr. Perry's office deals with post-police contact. Mr. Perry responded that the appointment of counsel is made when the juvenile first appears in court and that if a juvenile is arrested, but released, he or she will be issued a subpoena and appointment begins at that stage. Mr. Perry noted that if the district attorney offers diversion, that is done without counsel, which is a point of contention.

**10:38 AM**

Mr. Perry concluded his remarks and Mr. George Yeannakis came to the table, introducing himself as special counsel from the state of Washington. Mr. Yeannakis distributed copies of several documents (Attachment E) for the committee to review.

Mr. Yeannakis described the system in Washington, where there is no centralized public defender and each of the 39 counties have their own requirements. He said that most counties hire defense counsel via contracts and he has spent time creating a model contract for this purpose. He described the history of Washington's juvenile justice system, noting that it too was assessed by the NJDC about 10 years ago. Mr. Yeannakis discussed waivers, which have dropped from about 2,000 per year in 2004 to 200 per year as a result of rule changes by the Washington Supreme Court. Concerning indigency, Mr. Yeannakis said Washington does not have a presumption of indigency, but there is a process for provisional appointments.

**10:49 AM**

Mr. Yeannakis discussed a demonstration project that was implemented to study outcomes related to having an attorney present at the juvenile's first appearance. He said the results showed that the number of releases from detention increased and parents became more involved. He indicated that the county has continued to fund the program following the project's completion and that other counties are beginning to implement this model.

Senator Harvey asked about provisional appointments. Mr. Yeannakis said that generally provisional appointments transition to regular appointments because if the family has funds to hire counsel, this is done immediately. He explained that Washington is unique in that it has a determinate sentencing scheme.

**10:59 AM**

Mr. Yeannakis discussed the role of his office as an advocacy organization and as a resource for providing training and technical assistance. Senator Harvey asked who attends training. Mr. Yeannakis responded that the model contract calls for attorneys to get seven hours of continuing training per year.

Concerning the quality of representation, Mr. Yeannakis reviewed cases that led to changes in standards. He said that the Washington Supreme Court now limits caseloads to 250 cases and requires attorneys to have minimum qualifications to handle certain kinds of cases (i.e. sex offenses), access to investigative services, access to an office for a private consultation, and telephone service.

**11:14 AM**

Ms. Brown stated that she assumes that this committee will propose legislation to require notification of the public defender when a juvenile is detained and wondered if Washington had any statistics that would be helpful for Colorado to determine the impact of this requirement on caseloads. Mr. Yeannakis responded that he would be happy to provide a copy of a report on the findings in Yakima County, but his impression is that caseloads don't increase, the timing of appointment is quicker. Representative Levy said it would be worth following up to get statistics from other states.

Senator Harvey said automatic appointment increases workloads for judges and courts, too, and asked how the counties have handled that increased expense. Mr. Yeannakis said he thought the time increase was offset by a decreased amount of time needed to respond to questions from youth and parents. He remarked that, in Washington, detention bed placement was reduced. Mr. Yeannakis explained the diversion process in Washington, which does not require a plea.

**11:20 AM**

Mr. Yeannakis completed his presentation and Eric Zogry came to the table, introducing himself as the juvenile defender from North Carolina. Mr. Zogry distributed copies of his materials (Attachment F) and reviewed his background. He described North Carolina's system as being comprised of 100 counties and 44 judicial districts. He indicated that juvenile court is under the purview of the district courts and that, since 2000, indigent defense has been managed by the Office of Indigent Defense Services (IDS). According to Mr. Zogry, IDS is responsible for payment and quality but doesn't supervise the attorneys. He reviewed the manner in which attorneys are assigned as including appointment as a public defender, contract-based, private panels, and law clinics.

Mr. Zogry discussed North Carolina's assessment by the NJDC in 2003 and commented that many of Colorado's issues were also issues in North Carolina at that time. He discussed how IDS was established, its mission, and its role in developing and providing training and resources for juvenile defense attorneys.

**11:31 AM**

Mr. Zogry said North Carolina follows the "expressed interest advocacy" model of defense and has attorney qualification standards, such as training requirements and performance guidelines, which create a juvenile specialization. Representative Kagan asked who issues the licenses. Mr. Zogry responded that the North Carolina State Bar does, although there is also a voluntary bar. Senator Harvey asked if juvenile defense attorneys are required to be specialized. Mr. Zogry responded that they aren't required to have the specialization, but it is an option that allows someone to position him or herself as having expertise in the field.

**11:41 AM**

Regarding the presumption of indigence, Mr. Zogry referenced North Carolina's statute, which was included in the packet of handouts. He said that in North Carolina, paperwork is completed through a petition, but once this is filed, the summons shows the assigned counsel as part of the process. He noted that there really isn't a waiver process in North Carolina because everyone is presumed indigent and appointed an attorney prior to the first hearing. Concerning cost, Mr. Zogry said juvenile defense makes up less than 3 percent of the statewide budget for attorney costs.

Ms. Brown asked if there are any recoupment provisions in place in North Carolina. Mr. Zogry responded that yes, this is typically handled by IDS and the court can order the parent to pay the fees. Magistrate Koppes-Conway asked how indigency is determined in North Carolina. Mr. Zogry said the court usually does this, although in Charlotte, there is a separate entity that makes these determinations.

Judge Smith asked about adjustments prior to sanctions. Mr. Zogry responded that this process occurs through local juvenile justice offices and said that anyone can file a complaint, but the local office determines whether a case will be filed. Mr. Zogry noted that in North Carolina, this function is handled by a division of the Department of Corrections, which has local court counselors who function as a hybrid of intake and probation roles. According to Mr. Zogry, the local court counselors determine filing of cases, rather than the district attorney, but that if no case is recommended, a victim can appeal that decision to the district attorney. He said that in North Carolina, a youth is considered an adult at the age of 16.

#### **11:56 AM**

Representative Levy asked all presenters to come back to the table for questions as a panel. Senator Harvey asked about the cost of specializing in juvenile defense. Mr. Dohan responded that there is no data on this. He said the Ways and Means Committee in Massachusetts did an analysis that found annual costs would be offset by reductions in long-term costs. Mr. Perry said that he agrees that dedicated juvenile defense does create additional costs, but the human capital costs of failing to get appropriate services and early interventions must also be considered. According to Mr. Perry, a juvenile who is involved in the justice system is 13 percent less likely to graduate high school and incarceration in a juvenile facility makes a youth 16 percent more likely to go to an adult jail. Representative Levy said it appears that in other states there are less rigid boundaries in terms of accessing services, but that in Colorado it may be that one has to become involved with the juvenile delinquency system to get services. Mr. Perry and Mr. Dohan both commented that in some cases these boundaries do exist in their states, which is why it's important for defense attorneys to be aware of and advocate for youth to access the services that are available in their communities. Senator Harvey asked when the Massachusetts model was established, to which Mr. Dohan responded that they moved from a pilot project to a statewide division in 2009.

Kim Dvorchak discussed how these four states have centralized leadership and asked them to comment on the benefits of this approach in terms of reform. Mr. Zogry said its been absolutely necessary because its takes the pressure off local actors to push reform and ensures that juvenile defense has a seat at the table with other stakeholders in improving the criminal justice system.

#### **12:19 PM**

Representative Levy recessed the committee until 1:30 pm.

#### **01:23 PM -- Presentations from Parents and Children**

Representative Levy called the meeting back to order and invited Feliciano Lilgerose and her son, Lorenzo Lilgerose, to begin their presentation. Mr. Lilgerose introduced himself as a 17-year-old who has been involved with the juvenile justice system for two years. He reviewed his criminal history and experiences with courts in Denver, Adams, and Arapahoe Counties, describing how in one case, he had three separate attorneys. Mr. Lilgerose said he believes that for serious cases, consultation with an attorney shouldn't happen minutes before a court appearance. He also expressed concern that juveniles are waiving their right to counsel without really understanding what that means.

**01:47 PM**

Ms. Lilgerose provided some background on their family dynamic and her perspectives on the process for appointing counsel. She described her frustration at not being made aware of services that may have helped her son, difficulties with the process of obtaining counsel through the parental refusal process, and concerns about the quality of the representation that was provided. Ms. Lilgerose noted that the appointed attorney did not attend sentencing, which she views as unacceptable. She also described being confused as to why, when Mr. Lilgerose needed representation while in the custody of the Division of Youth Corrections, he wasn't determined indigent and appointed counsel. According to Ms. Lilgerose, one of her biggest frustrations is how different the process is in each county. She expressed a desire for counties to be more consistent. She said a review of the alternative defense options is warranted, particularly how attorneys are appointed and who is permitted to be on the parental refusal list. Ms. Lilgerose recommended that the state produce a handbook to help guide parents and juvenile through the process.

**02:01 PM**

Ms. Brown clarified that the counsel who represented Mr. Lilgerose was not a public defender but private counsel. Ms. Lilgerose agreed, saying she was referring to private counsel appointed through the parental refusal process. Representative Levy commented that the system is fractured and that often people are left to fend for themselves.

Magistrate Koppes-Conway said she often appointed guardians ad litem even if the parent was involved because of concerns about the attorney. She asked whether Mr. Lilgerose was offered a guardian ad litem. Mr. Lilgerose responded that he was in one case, but that the appointment was removed when the court realized his parent was involved. Magistrate Koppes-Conway asked Mr. Lilgerose if he had any impressions from his peers on the helpfulness of guardians ad litem. Mr. Lilgerose responded that his impression is that they are not helpful and can interfere in the parent-child relationship.

Angela Brant asked Mr. Lilgerose why he feels it's important to have an attorney at detention. He responded that he didn't have representation at his detention hearings, but that he found that he was nervous and that court was hectic. Mr. Lilgerose said he felt pressured to sign paperwork saying that he understood his rights, but that really he didn't understand what he was signing.

Senator Marble asked Mr. Lilgerose if he was allowed to review his police report. Mr. Lilgerose responded that he was told how serious the charge was but he wasn't able to review the documents until a year later. Mr. Lilgerose said that he felt that he should have been able to read them before he accepted a plea and that he was very frustrated by this.

Representative Levy asked if the financial burden affected the quality of representation Mr. Lilgerose received. Ms. Lilgerose responded that she wasn't worried about the costs, but the attorney was and it did appear to affect the quality of representation.



**02:11 PM**

Senator Marble stated that police reports can be requested for a small fee from the appropriate agency. She said that a lot of the problems start with police contact and asked whether Mr. Lilgerose knew if his peers had access to their files. Mr. Lilgerose responded that to his knowledge, they didn't. Ms. Lilgerose commented that they weren't offered the opportunity to have an investigator and that in her opinion, the attorney was predisposed towards accepting a plea rather than fighting for Mr. Lilgerose.

**02:18 PM -- Colorado Juvenile Defender Coalition Research**

Kim Dvorchak and Anne Bingert from the Colorado Juvenile Defender Coalition (CJDC) came to the table to discuss their research (Attachment G). Ms. Dvorchak stated that their research principally focused on gathering juvenile data, trying to answer the question of why juveniles waive counsel, and understanding differences in practices among counties. Ms. Dvorchak reviewed the sources of data used, noting that of the 15,000 cases pulled over the most recent three-year period, the most serious charge in over 75 percent of cases was a class 1 misdemeanor. She said the portion of the handout called "Kids Without Counsel," is an advance copy of a forthcoming report on the CJDC's court-watching program. According to Ms. Dvorchak, the program's intent was to observe the reasons for juveniles waiving counsel. She discussed their conclusions, stating that the first barrier to representation is the absence of a juvenile defense attorney in the courtroom in most jurisdictions. She said that the absence of defense attorneys contributes to the number of waivers because without counsel, advisements are performed by the prosecutor, who is also handling plea paperwork. Ms. Dvorchak said that the implication is participants can accept a plea deal and resolve the case, or they will need to hire an attorney and come back to court at a later date. She suggested that some jurisdictions, such as Denver, Boulder, and El Paso Counties, which are staffed with defense attorneys have lower waiver rates.

**02:27 PM**

Ms. Dvorchak said that the second factor that affects access to counsel is the application process for indigence determination. She noted that, with the exception of Denver, in most jurisdictions, determinations are not done on the same day, which results in people having to come back to court and take additional days off from work. She commented that it would be helpful to include the application requirements on the summons itself. She said the other aspects of the report discuss practice issues. Specifically, Ms. Dvorchak said that juveniles are not waiving counsel to proceed *pro se*; they are waiving counsel in the context of entering a guilty plea. She said this may be happening because of pressure to wrap things up and hectic courtrooms.

Representative Kagan asked Ms. Dvorchak to explain how the application process for indigency deflects people from obtaining counsel. Ms. Dvorchak responded that because people aren't aware of the requirements, they don't come to court prepared, which means that they could potentially have to take two more days off from work to complete the forms and gather the required paperwork.

Representative Levy commented that at times judges are appointing counsel prior to the parents filling out paperwork. Ms. Brown and Ms. Brant each agreed, saying that at times a judge accepts what is being said in court and doesn't require the paperwork. According to Ms. Brown, this is more likely when the public defender is already present in the courtroom. Ms. Dvorchak commented that she has wondered, in cases where a guardian ad litem is appointed but a public defender is not, whether this is due to indigency qualifications.

**02:37 PM**

At Representative Levy's suggestion, Ms. Bingert provided a review of the materials concerning appointment, indigence, waiver of counsel, and defense delivery systems in other states. She explained that 38 states automatically appoint counsel and 12 states require the juvenile to request counsel and to have indigency established. She noted that most states do determine indigence, but they are more flexible about the timing of that determination and it doesn't prevent appointment of counsel.

Regarding waivers, Ms. Bingert said that 20 states limit the ability of a juvenile to waive counsel. She said that typically, this restriction is for certain types of charges, such as felonies or sex offenses. She explained that in some states, the juvenile must consult with an attorney in order to waive counsel and in others, the restriction is age based. Ms. Bingert said that in Idaho and Pennsylvania, children under the age of 14 may not waive counsel and in Wisconsin, the age requirement is 15.

Ms. Dvorchak said that goals for Colorado should be to have counsel at the first appearance and to have a presumption of indigence in statute. She said another goal would be to prevent juveniles from waiving counsel unless they have had the opportunity to consult with counsel and that this process would happen independently of any discussion of a plea deal. Ms. Dvorchak said limits on waivers should also exist for certain offenses and there should be age restrictions.

Representative Kagan asked for clarification on their recommendations. Ms. Dvorchak responded they are recommending that the acceptance of a waiver be clearer in that it is to proceed *pro se* versus accepting a plea agreement.

Judge Smith mentioned the waiver of counsel process in Washington and asked whether they saw documents similar to this in their site visits. Ms. Bingert responded yes. Judge Smith asked if they observed a range of attitudes from judges on the acceptance of waivers. Ms. Bingert replied that her sense was that judges generally appeared to feel as if the conversation with the prosecutor was sufficient. Ms. Dvorchak remarked that what appears to vary is the level of attention that this matter is given by a judge.

**02:50 PM**

Representative Lee asked whether there was a need to conduct an independent determination of competency to waive counsel, based on age. Ms. Dvorchak responded that if the requirement is to consult with counsel before making a waiver, this would be resolved.

Senator Guzman asked about the connection between indigency and waivers. Ms. Dvorchak responded that she is not asking for waivers to be denied altogether, but that there instead be restrictions and guard rails in place to protect children. Representative Levy commented that the presumption of indigence ensures access to counsel at an earlier point. She said the policy goal would be to try to remove the paperwork impediments but that how a waiver is accepted is separate. Ms. Dvorchak noted that children do not have control of their parents' assets, but those assets affect their ability to get counsel.

Ms. Brown clarified that states that have a presumption of indigence do still have a process to determine indigence and to recoup expenses as necessary. Senator Marble stated that she believes a juvenile should be determined indigent by virtue of their age and in accordance with federal labor laws.

### **03:02 PM -- Overview of Truancy Proceedings**

Hillary Smith from Legislative Council Staff introduced herself and reviewed a memorandum she prepared on truancy (Attachment H). She began with a brief review of state law on truancy, noting that state law is premised on the concept of having court proceedings as a last resort. She reviewed the process for court proceedings to occur and the requirements and outcomes of court intervention. Ms. Smith said that over the prior five years, truancy filings have declined by about 17 percent.

Senator Harvey asked whether truancy cases are heard in municipal court. Ms. Weinerman commented that these cases must be filed in district court. Carol Haller, sitting in for Patrick Brodhead, stated that it may be that a hearing occurs in a municipal court if the district has a special program, such as a teen court, but noted that this is still a district case.

Ms. Smith explained that the court may appoint a guardian ad litem in a truancy case and that about 15 percent of the cases over the prior five years had a guardian ad litem attached at some point during their case.

Regarding the use of detention in truancy cases, Ms. Smith said this data is required to be tracked by the Division of Criminal Justice within the Department of Public Safety because it involved status offenders. Ms. Smith said a status offense is something that is violation for a minor, but not an adult, such as truancy. According to Ms. Smith, it is a violation to hold an accused juvenile for more than 24 hours or an adjudicated one without a valid court order. She said Colorado has violated these requirements, but has not approached the threshold for funding reductions.

Magistrate Koppes-Conway asked if there have been other observations that a holistic approach is changing the number of actual truants. She noted that there are 15 school districts in her jurisdiction and asked whether these interventions are effective in reducing truancy. Ms. Smith said the Colorado Department of Education is required to track some of this information. Ms. Weinerman commented that truancy cases are not just older youth who are skipping classes, but are also filed against younger children, who often have different root issues, such as poverty and homelessness.

**03:18 PM -- Process for Requesting and Finalizing Bill Drafts**

Ms. Smith explained the process and timelines for requesting and finalizing bill drafts, noting that the committee may approve a total of eight bill drafts. Specifically, she said requests must be made on or before October 4, and be approved during the final committee meeting on October 28. Ms. Smith noted that any committee member can request a bill, but it must have a support of the majority of the legislators to be drafted. Ms. Smith said that Representative Levy will gauge support by asking for a show of hands on October 4.

Ms. Smith said that Representative Levy will assign a point person to work with Richard Sweetman, drafter, during the drafting process, but noted that anyone can talk to Richard. She explained that bill drafts will be distributed and posted online at least a week before the October 28 meeting. She said that Legislative Council Staff will assume the bill is not confidential if requested in an open meeting, but asked any members who wish to keep their bill idea confidential to please let staff know. Ms. Smith said that small, technical changes can be conceptually offered on October 28, but substantive changes must be requested in advance. She said that any committee member who has suggestions for amendments can contact Richard directly.

According to Ms. Smith, during the October 28 meeting, Richard or the point person will walk the committee through the draft and amendments. She said only legislative members can move, second, and vote on prepared amendments and bills and that, apart from any minor technical changes by Richard, no changes may be made to bill drafts after October 28. She explained that Legislative Council is meeting on November 14 to consider proposed bills and determine if they fit the charge of the committee. Ms. Smith said approved bills will be introduced in the 2014 session and noted that any ideas not approved by the committee can be pursued by an individual legislator if he or she is interested.

**03:28 PM -- Discussion of Potential Legislation**

Representative Levy recommended that the committee brainstorm on topics for potential legislation. She observed that the committee has discussed the following topics:

- restrictions on waiver of counsel;
- the timing of the appointment of counsel;
- the presumption or determination of indigency;
- providing counsel at all detention hearings, which would entail addressing how different districts conduct their dockets and provide notice to public defenders;
- the issue of training and standards of quality for defense counsel;
- expungement; and
- data collection.

Representative Lee indicated he would like to consider having a juvenile public defender office within the Office of the State Public Defender (OSPD). Ms. Brown added advisement of collateral consequences as a topic for consideration. Ms. Dvorchak asked the committee to consider the process of issuing a summons and whether that can provide information on how to obtain counsel.

Representative Lee commented that most of the successful models involve providing services to juveniles early in the process, ideally aligned with the appointment of counsel. Ms. Brown suggested that adding social workers to OSPD staff may be one option, to which Ms. Weinerman agreed. Representative Kagan commented that this could come under the rubric of training and standards. Magistrate Koppes-Conway added that adequate training and having "cost money" available for children are key. She explained that "cost money" is a term used for funding that is used to pay the costs of getting transcripts or police reports.

Senator Harvey said prosecutors need to be adequately educated as well, not just defense counsel. Ms. Weinerman suggested that specialized juvenile courts outside of Denver may be worth considering. Ms. Dvorchak suggested that if there is no automatic appointment of counsel, it may make sense to move the parental refusal process to another agency.

Representative Levy said that the expungement task force will report at the next meeting and there will be additional time for brainstorming during the October 4 meeting.

#### **03:44 PM -- Public Testimony**

Representative Levy opened public testimony, calling Diana Richett to the table. Ms. Richett explained her background as a juvenile defense attorney and guardian ad litem. She stated that she believes juveniles should be determined indigent and appointed counsel automatically and expressed concerns about the current process.

#### **03:53 PM**

Heather Rice-Minus came to the table and introduced herself as a representative of the Justice Fellowship. She reported talking with persons providing programming in juvenile facilities and their concerns that public defender caseloads are too high. She said that often kids get two minutes with their public defender and don't understand the collateral consequences of a juvenile adjudication. Ms. Rice-Minus said that juvenile defense attorneys need appropriate training to understand that kids are different from adults and to learn how to relate to kids. Representative Levy suggested that the committee also consider looking at caseload standards. Ms. Martin asked about the Justice Fellowship and at what stage they get involved. Ms. Rice-Minus responded that they are working with youth after they have contact with the juvenile justice system.

**04:02 PM**

Bonnie Saltzman came to the table to testify, introducing herself as a juvenile defense attorney who performs a lot of pro bono work. She expressed concerns about the parental refusal process, arguing that this sets up a horrible dynamic as the juvenile has the emotional burden of being aware of the financial pressure appointment of counsel places on his or her parents. She also said she believes it is a conflict for the judicial officer to make decisions on appointing counsel when the cost is coming out of the Judicial Branch's budget. Ms. Saltzman said that appointments of guardians ad litem often occur instead of an attorney when a juvenile does not qualify as indigent, which is not appropriate in her view. She said that a guardian ad litem does not have the same role as an attorney and the same protections, such as attorney-client privilege, don't apply. Ms. Saltzman concluded her testimony by advocating for more frequent and standardized training for juvenile defense counsel, distributing recommendations for such through a handout called "Colorado Youth Workforce Development Enterprise" (Attachment I).

**04:15 PM**

Representative Levy adjourned the committee.