

Final
STAFF SUMMARY OF MEETING
JUVENILE DEFENSE ATTORNEY

Date: 10/04/2013

Time: **09:03 AM to 04:13 PM**

Place: HCR 0112

This Meeting was called to order by
Representative Levy

This Report was prepared by
Hillary Smith

ATTENDANCE

Brant	X
Brodhead	E
Brown	*
Dvorchak	X
Harvey	X
Hudak	*
Jessel	X
Kagan	X
Koppes Conway	X
Lee	E
Lilgerose	X
Marble	X
Martin	X
Navarro	X
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	Committee Discussion Only
Expungement Subcommittee Report	Committee Discussion Only
Discussion of Potential Legislation	Witness Testimony, Committee Discussion, 4 Bill Ideas

09:05 AM -- Opening Comments

Representative Levy, chair, called the meeting to order. She noted that the committee received bill ideas from herself, Ms. Brown, and Ms. Dvorchak (Attachment A, Attachment B, and Attachment C, respectively).

09:06 AM -- Expungement Subcommittee Report

Ms. Martin explained the work of the Expungement Subcommittee. She said that the subcommittee felt that it would be too difficult to create legislation addressing expungement within such a short time. She listed several of the issues that the subcommittee discussed, including streamlining the process of expungement. Ms. Martin explained the current expungement process. She discussed concerns about sex offense cases involving deferred adjudications. Ms. Dvorchak shared additional information concerning access to records after they are expunged. Representative Levy asked about the membership of the subcommittee. Ms. Martin and Ms. Dvorchak offered to prepare an outline of topics of discussion to serve as a starting point for future efforts.

09:12 AM -- Discussion of Potential Legislation

Representative Levy asked Mr. Richard Sweetman from the Office of Legislative Legal Services to come to the table to assist the committee in its discussions. Representative Levy referred to Attachment A, containing her list of suggested topics, Attachment B, from the Office of the State Public Defender (OSPD), and Attachment C, from the Colorado Juvenile Defender Coalition.

09:13 AM

Mr. Sweetman briefly summarized his role in the process of discussing potential legislation. He noted that he has counted about a dozen individual bill requests, but several of the ideas could easily fit under a single bill title. He suggested that the committee consider how it would like to organize its ideas under various titles. He explained the drafting process he will follow to get initial drafts sent out to the designated "point people" as soon as possible. Mr. Sweetman said that the goal is to have each of the drafts prepared and posted online no later than Monday, October 21, 2013.

09:17 AM

Representative Levy asked the committee to consider whether there are issues that have not been included in any of the attachments that committee members would like addressed. Senator Marble spoke about the importance of allowing juveniles to receive copies of their police reports. She suggested that before the juvenile sees the district attorney, a copy of the police report should be made available to the juvenile. Representative Levy and Judge Smith responded to her remarks. Committee discussion continued. Magistrate Koppes-Conway said that the initial police report is an important element in a proper advisement.

09:20 AM

Ms. Jessel noted that prosecutors currently have obligations to provide discovery documents. She said that reports within the investigative phase may not be made available, and supplements are often filed. She asked about the timing that Senator Marble envisions, noting that district attorneys may not receive full charging documents immediately. Representative Levy asked at what point a district attorney's office is obligated to turn over discovery documents. She then asked whether Senator Marble is most concerned with whether the juvenile has access to charging documents, or whether other parties have such access. Senator Marble explained her concerns with the current process. Ms. Jessel expressed her concerns that a charging report could exacerbate family discord. Magistrate Koppes-Conway said that it important for the Judicial Branch to ensure that a parent and child have fully and adequately reviewed the police report. She suggested that it should be mandated that such a discussion be part of the colloquy during a plea.

09:30 AM

Ms. Carol Haller, Legal Counsel for the Colorado Judicial Branch, who was sitting in for Mr. Brodhead, suggested that a requirement could be added to the Section 19-2-706, C.R.S. statute and also to Rule 3 of the Colorado Rules of Juvenile Procedure. Judge Smith said that law enforcement always has a report. He stated that the plea-taking stage is too late for the report to be made available to judicial officers. He said that the breakdown occurs during what he termed to be the ongoing battle of discovery between the defense and the prosecution.

09:34 AM

Senator Marble expressed her view that information about discovery and police reports should be given to a child in an age-appropriate manner. Judge Smith reiterated his comment that the police report already exists, it is just a matter of getting it to the appropriate people in a timely manner. He suggested that when the juvenile is detained, the arresting agency should provide the police report to counsel and to the court. Representative Wright asked whether the OSPD has already suggested this idea in Attachment B. Ms. Brown noted that a lot of these suggestions are included in Attachment B, although the wording could be amended to ensure that the arresting agency provides the police report to counsel and to the court. Senator Harvey noted that the child is not included in the list of entities who must receive discovery. Ms. Brown said that the OSPD lets all clients read discovery materials, but providing those materials to clients can cause issues, particularly if the juvenile is in detention.

09:40 AM

Ms. Jessel discussed the differences between the arrest report, Senate Bill 94 materials, police reports, and discovery. Senator Marble said that juveniles need more time than is currently given to review all of their documents. Representative Kagan asked if Senate Bill 94 screening materials include the arrest report. Representative Levy said that it is important to resolve whether the committee is concerned with the arrest report or the police report. Magistrate Koppes-Conway spoke about the probable cause affidavit that currently comes to the court through the arresting agency. She said that it is not necessarily true that Senate Bill 94 programs have that affidavit. She also spoke about the importance of ensuring that a juvenile and his or her parent review the discovery prior to a plea. Ms. Jessel spoke about the time lag that may prevent a district attorney's office from receiving a full report.

09:47 AM

Judge Smith said that the United States Supreme Court requires an affidavit of probable cause to support an arrest for anyone who is held. He suggested that the committee use this phrase in its legislation. Representative Wright spoke about his experience as a former police officer, noting that officers write an affidavit immediately. He noted that a police report can take more time to prepare and release. He said that the legislation should indicate that police reports should be provided as soon as possible. Representative Levy suggested that they should be provided when they are completed.

09:50 AM

Ms. Dvorchak spoke about the importance of looking at the Colorado Rules of Juvenile Procedure. She also discussed standards of practice for juvenile defense attorneys. Magistrate Koppes-Conway asked about language in Attachment B concerning when a court can hold a juvenile. Representative Levy asked Ms. Brown to address the language, which is on page 1 of Attachment B. Ms. Brown stated that too many juveniles are detained, and this language attempts to raise the bar for detention and to conform with language concerning detention hearings. Ms. Jessel suggested that the safety of the victim be added to the language concerning when a court can hold a juvenile. She noted that in some cases, a parent may not be ready to take a juvenile home. She said that if a parent cannot or will not take a child home, and the child is not a danger, there are no places to keep that child. Representative Levy discussed whether this issue is within the scope of the committee.

09:57 AM

Senator Marble noted that many cases come to a resolution without a chance for the juvenile to see the police report. Representative Wright expressed his concerns with amending the language concerning when a court can hold a child. He noted that it may not always be in the child's best interests to return home. Ms. Dvorchak discussed opinions concerning whether juveniles who are a danger to themselves should be detained and expressed the view that this particular issue is outside the scope of the committee.

10:02 AM

Magistrate Koppes-Conway encouraged the committee to adopt the language on page 2 of Attachment B concerning information that the promise to appear should include. Representative Levy noted that her bullet point number 6 on Attachment A also addresses this issue. Representative Levy asked the committee to address the issue of standards of practice. Senator Harvey referred back to the language on page 2 of Attachment B, stating his opinion that the language should state that the juvenile and/or his or her parent or legal guardian "shall" choose counsel that is experienced in representing juveniles in the juvenile justice system, rather than "should."

10:06 AM

Ms. Jessel said that there are consequences when you take parental discretion away. Discussion continued on this issue. Magistrate Koppes-Conway noted that there is case law indicating that individuals have the right to choose their own attorney. Senator Marble said that the legislature cannot mandate whom a person can hire as an attorney, but it is possible to provide a definition of a juvenile defense attorney. Representative Levy suggested that the colloquy with the judge may be the best area for such advice. She noted that Colorado does not have a system for regulating most types of attorneys.

10:12 AM

Ms. Haller said that patients are required to ask certain questions of their doctors, and perhaps it would be helpful to inform juveniles of criteria to examine when choosing a lawyer for a juvenile case. She noted that many people may not be aware that attorneys specialize. Senator Harvey referred to testimony from a member of the public about hiring an excellent attorney who did not specialize in juvenile cases. He expressed support for requiring attorneys to have continuing education in order to provide counsel in juvenile cases. Discussion continued between Senator Harvey and Representative Levy, with Representative Levy noting that any attorney can practice in any field, with some exceptions such as patent law. She explained her concerns with creating a new specialty of law without fully thinking through the consequences.

10:16 AM

Representative Levy sought additional ideas for ways to ensure that juveniles have adequate counsel. Magistrate Koppes-Conway noted that some attorneys may be excellent at juvenile cases even without experience. She expressed her support for establishing a separate Office of the Juvenile Public Defender. Representative Levy asked how such an office would operate. Conversation continued, with Representative Levy sharing her thoughts on the Massachusetts juvenile defense system.

10:20 AM

Ms. Brown commented on the suggestion of creating an Office of the Juvenile Public Defender. She listed the various steps the OSPD took after the National Juvenile Defender Center assessment, noting that the OSPD has removed all obstacles to promotion to allow attorneys to specialize in juvenile defense. Representative Levy spoke about the need to have consistency throughout the OSPD, the Office of the Alternate Defense Counsel (OADC), and parental refusal attorney lists. Ms. Weinerman shared her thoughts on this issue, stating that where the OSPD focuses on juvenile defense, the office does an excellent job. She noted the importance of providing appropriate funding to the OSPD. Representative Levy said that it is important to have well-trained attorneys in rural jurisdictions as well. Ms. Dvorchak referred to Attachment C, which lists several options for ways to enhance the practice of juvenile defense in Colorado. She said that in her opinion, an Office of the Juvenile Public Defender would be ideal.

10:29 AM

Representative Levy asked for information about the differences between Option 1 and Option 2 on pages 3 and 4 of Attachment C. Ms. Dvorchak responded to her questions. Judge Smith discussed the history of the OSPD and spoke about the importance of having a statewide and state-funded program. He noted that the OSPD is independent of the Colorado Judicial Branch, although its budget comes from the Colorado Judicial Branch. Representative Levy asked how conflict counsel was handled prior to the OADC. Ms. Brown noted that there would be a conflict in bringing the OSPD and the OADC under one roof. Ms. Haller pointed out that Ms. Shawna Geiger from the OADC was available to answer any questions. Ms. Brown said that the legislature may not have the authority to set standards of practice for attorneys. She said that once standards are placed in law, new grounds are created for charges of ineffective assistance of counsel. Ms. Brown noted that a subcommittee of the Colorado Commission on Criminal and Juvenile Justice has been working on standards of practice for years.

10:37 AM

Ms. Jessel discussed developing standards of practice for district attorneys and defense counsel. She described her experience in drafting standards for guardians ad litem. Representative Levy stated that developing standards can be problematic, but the legislature could provide resources to the Colorado Judicial Branch and the OSPD to create standards of practice. Ms. Weinerman discussed comparing drafts of suggestions in order to provide guidance to Mr. Sweetman. Representative Kagan suggested designating on-call attorneys in rural areas. Representative Levy sought information about how such on-call attorneys would fit into the current system of OSPD, OADC, and parental refusal attorneys. Conversation continued between Representative Levy and Representative Kagan.

10:48 AM

Representative Levy discussed Option 2 in Attachment C. She asked what the difficulty would be in making juvenile defense more of a specialty at the OSPD. She spoke about the organization of the OSPD and the care taken not to create conflicts by sharing too much case information.

10:53 AM

Ms. Geiger, representing the OADC, answered questions from Representative Levy concerning the OADC's practices for screening attorneys to represent clients in juvenile cases. Ms. Geiger said that the OADC's process for ensuring qualifications has been evolving. She said that it is easier to choose specialized contract attorneys in larger jurisdictions. She noted that the OSPD is the first line of defense for detention hearings in rural areas. She addressed previous comments from Ms. Brown, noting that both agencies can do a better job in coordinating training. Representative Levy asked if the OADC has standards of practice or training qualifications in its contracts. Ms. Geiger noted that in the past year, the OADC added a training component for criminal procedure or juvenile law to its contracts. She spoke about a budget proposal to send more attorneys to training.

10:59 AM

Ms. Brown sought additional information from Ms. Geiger concerning the training sponsored by the OADC. Ms. Brown noted that training offered by the OSPD is required and free. Senator Harvey asked Ms. Geiger for additional information about the OADC training requirements. Conversation continued between Senator Harvey and Ms. Geiger. Ms. Geiger addressed previous questions concerning quality control. Ms. Lilgerose asked how long OADC contracts last for. She also asked whether attorneys on parental refusal lists require training. Ms. Geiger stated that OADC contracts are three-year contracts. She stated that she is not able to do as much court observation as she would like.

11:07 AM

Magistrate Koppes-Conway asked whether the OADC would like to be in charge of parental refusal lists. Ms. Geiger said that she would personally be happy to do that, although she is unsure how such a change would impact the OADC's budget. Representative Levy said that there seems to be no quality control for attorneys on the parental refusal list. Conversation continued on this topic. Ms. Geiger spoke about respondent parent counsel, and Representative Levy noted that this committee cannot address that issue.

11:11 AM

Ms. Haller agreed that parental refusal attorneys should be part of the OADC. She also stated that she supports a presumption of indigence. She said that the emotional toll of hiring attorneys for a juvenile delinquency case should not be discounted. She spoke about potential methods to recoup the costs of appointed counsel. Ms. Haller expressed support for a flat fee, rather than an hourly rate. Conversation continued on this point.

11:15 AM

Ms. Geiger listed the reasons to presume that children are indigent. Magistrate Koppes-Conway suggested that the front-end increase in costs for the OADC may create a decrease in costs for the Department of Human Services. She spoke about other areas in which children are presumed indigent.

11:19 AM

Representative Levy asked the committee to further discuss the idea of a presumption of indigence. Ms. Brown referred to Attachment B, which proposes that every child have representation at detention hearings through the first advisement. Ms. Brown noted that the term "presumption" may indicate that it is a rebuttable presumption. She addressed the idea of establishing a series of flat fees for representation and expressed her opposition to a presumption of indigency all the way through a case.

11:23 AM

Representative Levy discussed the goal of getting attorneys to children at detention hearings and first appearances without paperwork and without delay. She also expressed the goal of ensuring that juveniles have proper advisement on waivers. She referred to the draft language in Attachment B concerning amendments to Section 19-2-508, C.R.S. Ms. Dvorchak expressed her concerns with the OSPD's language in Attachment B, noting problems with interruptions and changes in counsel. Conversation continued between Representative Levy and Ms. Dvorchak.

11:30 AM

Judge Smith asked how the issues of multiple attorneys are handled in adult court. Ms. Haller spoke about the OSPD's complaint process when there are concerns about multiple public defenders or unqualified public defenders. Ms. Haller described problems caused by turnover within the OSPD. Ms. Jessel spoke about issues involving co-defendants. She expressed concern with taking away a parent's right to make decisions concerning counsel.

11:38 AM

Representative Levy explained her goal to get the entire universe of issues on the table. Ms. Jessel spoke about removing the contempt powers of the court in juvenile cases. Magistrate Koppes-Conway noted that contempt powers are an issue in delinquency procedures, not just truancy cases.

11:41 AM

Representative Wright referred to language on page 10 of Attachment B. Ms. Brown explained that the language matches language in a Chief Justice Directive. She continued to explain her reasoning. Representative Levy thanked everyone for their work. The committee recessed for lunch.

01:34 PM

The committee reconvened. Ms. Dvorchak distributed a flyer to the committee regarding a screening of "Kids for Cash," a movie about the juvenile defense system in Pennsylvania (Attachment D).

01:35 PM

Mr. Doug Wilson, representing the OSPD, came to the table to discuss issues concerning juvenile defense. He distributed a handout regarding juvenile defense training for public defenders in Colorado (Attachment E). He noted that the office has one training manger for more than 450 lawyers and that another training manager will be hired soon who will also focus on juvenile defense. Mr. Wilson discussed how juveniles enter the system, expanding representation for juveniles, waiveable and nonwaiveable offenses, and the coordination of summons return dates for smaller counties and districts. He said consistent summons return dates will help ensure that public defenders are available in each courthouse.

01:44 PM

Mr. Wilson stated that, as caseloads increase, conflicts of interest in both juvenile and adult cases will also increase. He noted that the departments will see costs increase somewhat significantly if all juveniles are represented. Senator Harvey noted that Massachusetts has seen the number of juvenile cases go down since the state restructured its juvenile system.

01:53 PM

Representative Levy asked Ms. Dvorchak and Ms. Brown to explain their draft suggestions to the committee. (Attachments B and C). She asked if the committee had any objections to changing the waiver of counsel rules. Ms. Dvorchak discussed why she believes there should be no waivers of counsel for children under 15.

02:03 PM

Representative Kagan asked whether juveniles should be allowed to waive counsel. Ms. Dvorchak discussed amending the statute to address guardians ad litem. Magistrate Koppes-Conway discussed with Ms. Dvorchak whether guardians ad litem should be allowed to waive counsel for juveniles.

02:12 PM

Ms. Jessel stated that guardians ad litem often have a better understanding of the issues than some parents do. Mr. Weinerman discussed the role of Colorado's Office of the Child's Representative (OCR) and guardians ad litem.

02:16 PM

Ms. Brown discussed the draft suggestions she submitted from the OSPD. Ms. Brown, Magistrate Koppes-Conway, and Ms. Jessel discussed mandatory screening and notification. Ms. Brown said the OSPD would most likely support electronic consultations. Judge Smith commented on the cost of transporting juveniles and how video consultation will improve efficiency. Ms. Haller stated that the Judicial Branch allows video consultation.

02:27 PM

Judge Smith and Representative Levy discussed electronic consultation. Magistrate Koppes-Conway said that each district handles the situation differently. The committee discussed issues related to juvenile detention. Representative Levy stated that if arresting officers transport a child to a detention center, they should have to take the child back home, especially in rural and mountain districts.

02:36 PM

Ms. Brown, Representative Levy, and Magistrate Koppes-Conway discussed whether it would be proper to limit waivers of counsel based on the age of the juvenile. Representative Levy stated that adding competency requirements may help address whether a child is old enough to waive counsel. Ms. Brown said it is important to note that what constitutes the best interests of a child differs between the OSPD and the Department of Human Services.

02:43 PM

The committee discussed Ms. Brown's suggestions regarding indigency requirements. Ms. Haller stated that recoupment from indigency determinations reverts to the General Fund. Ms. Jessel stated that parents should know up front the financial responsibilities that may come with parent refusal cases.

02:52 PM

Representative Levy discussed a suggestion about post-disposition representation. Ms. Haller stated that public defenders should have post-adjudication jurisdiction. Ms. Brown said that there must be a definite end to public defender representation, mainly to keep caseloads manageable.

02:59 PM

Ms. Brant discussed post-adjudication representation, especially when there is a chance for time added to a juvenile's sentence. Representative Levy discussed the feasibility of adding post-adjudication representation to statute. Ms. Brown stated that the OSPD would oppose any requirement that requires the OSPD to represent juveniles post-disposition. Magistrate Koppes-Conway stated that she would prefer representation up to placement in the Division of Youth Corrections. Ms. Brown stated that they would welcome adding social workers to the OSPD.

03:08 PM

Representative Levy stated that she would be in favor of a broad presumption of indigence. Senator Harvey stated that he would like to see statistics from other states with a broad presumption of indigence. Ms. Dvorchak stated that there is a significant gap between being eligible for a public defender at 125 percent of the Federal Poverty Level (FPL) and being able to afford a private attorney. Senator Harvey stated that he might support raising the percent of the FPL to include more people. Ms. Lilgerose and Ms. Jessel discussed restitution levels. Representative Levy stated that there is a dilemma in informing parents of an appropriate estimate of the costs without scaring them away from representation.

03:19 PM

Representative Levy stated that perhaps the committee should draft a bill that makes the indigence determination based on the assets of the juvenile. She said the system is currently set up where the person being represented is not in control of the assets. Representative Kagan suggested making parent refusal services a disclosure on the state income tax form. Ms. Haller stated that the Judicial Branch does currently do tax intercept for fees that go to collections. She suggested making a flat fee for parental refusal attorney services.

03:27 PM

Richard Sweetman, Office of Legislative Legal Services, returned to the table to assist the committee with bill draft ideas. He stated that there appeared to be general consensus among the committee for a bill that includes restricting waiver of counsel; changing the timing of the appointment of juvenile representation; adjusting the indigence determination for juveniles; requiring counsel at all detention hearings; requiring that juveniles be advised of collateral consequences; and addressing the process for issuing summons. Mr. Sweetman noted that there appeared to be interest in individual bills concerning additional data collection for juvenile cases; a dedicated state juvenile defender; and specialized juvenile courts.

03:36 PM

Representative Levy said that she would like to see a bill with an age limit for waiving counsel, but may reconsider later. Ms. Dvorchak stated that she believes juveniles should be 15 or older in order to waive counsel. Ms. Brown stated that she would like a requirement that juveniles be advised by counsel before being allowed to waive. She said the OSPD included a list of nonwaiveable offenses in its recommendations. Ms. Dvorchak said that she would like to see nonwaiveable offenses include an automatic appointment of counsel.

03:44 PM

Representative Levy discussed creating a committee resolution asking the Chief Justice to convene a committee to update the Rules of Juvenile Procedure. She stated that she does not see a practicable way to address standards of practice through legislation. Ms. Dvorchak commented that standards of practice would be created if the state created a dedicated state juvenile public defender. Representative Wright expressed his support for a dedicated state juvenile public defender.

03:53 PM

The committee discussed adding additional support services, including social workers, to the OSPD. Representative Levy and Ms. Jessel discussed whether additional support services should also be added to district attorney's offices.

04:01 PM

Representative Levy stated that Representative Wright and Ms. Dvorchak would be the point people for the bill concerning the creation of a dedicated state juvenile public defender. Ms. Brant, Ms. Weirnerman, and Ms. Dvorchak stated they would serve as the point people for the resolution concerning an update to the Rules of Juvenile Procedure and for a bill adding support services to the OSPD. Representative Levy stated that she and Ms. Brown would serve as point people for the omnibus bill.

04:09 PM

Representative Levy discussed the process for approving committee bills and getting them to the Legislative Council Committee. She said that she would prefer not to see conceptual amendments at the next meeting, and to send all comments concerning bill ideas to the dedicated Juvenile Defense Attorney Committee mailbox. Mr. Sweetman stated that he plans to have drafts available to the public by October 21.

04:13 PM

The committee adjourned.

1. Creation of restrictions upon the ability of a juvenile to waive counsel.
 - a. No waiver if felony, mandatory sentence, sex offense, risk of out of home placement
 - b. Must have advice of counsel for waiver
 - c. Presumption of indigence for purposes of advisement on waiver
 - d. Judge may accept waiver only after determining in language appropriate to the youth's developmental stage that the waiver is knowing, intelligent, and voluntary, which includes determining
 - i. Whether youth has been advised of possible collateral consequences
 - ii. Whether youth understands possible sentence options
 - iii. Waiver is not result of parental pressure
 - iv. Youth understands qualified counsel will be provided if parents unable or unwilling to retain.

2. Timing of appointment of counsel and the process of determining indigence. (Potentially including the issue of parental refusal of counsel.)
 - a. Youth in detention and at first appearance are presumed indigent.
 - b. Presumption continues unless
 - i. Valid waiver or Child appears with private counsel
 - ii. PD represents if qualified under indigence guidelines.
 - iii. If not eligible for PD, ADC represents with power to recoup expense

 - c. ADC and PD provide all defense unless waived or private counsel retained. No parent refusal counsel

3. All detained youth represented by counsel at hearing regardless of family income
 - i. Notice youth is in detention sent to PD and ADC same time as sent to DA and SB94 committee
 - ii. SB94 screening materials and other documents and discovery sent to PD and ADC same time as sent to DA and court
 - iii. Detention hearings held at a time that allows time for consultation with attorney before hearing.
 - iv. Scope of hearing limited to whether to detain. No combining with preliminary hearing or advisement.
 - b. Appointment of PD at detention hearing is limited appointment and would not create conflict if PD subsequently represent a co-defendant

4. Change PD statute to allow post-disposition representation on issues including placement, services, access to education.

5. ADC and PD develop training programs on juvenile representation. Incorporate principles of Positive Youth Development, use of social workers as resources, knowledge of programs and services available through county, courts, DYS and DYC.
 - a. To the extent practicable, staff juvenile cases with attorneys trained in specialty
 - b. Create a target caseload that allows investigation of multi-systemic needs and continued representation after disposition.

6. Summons used for first appearance must include in plain language understandable to someone with an 8th grade education that they may request counsel before proceeding, counsel may be appointed for them if they cannot afford one, and they may retain counsel if they choose. If they retain counsel they should seek the assistance of an attorney with experience representing juveniles in the juvenile justice system.
7. Judicial Districts that do not have dedicated a juvenile court, shall assign juvenile delinquency petitions, insofar as practicable, to one courtroom. [possibly do resolution requesting Chief Justice Directive on this issue]

DRAFT

OFFICE OF THE STATE PUBLIC DEFENDER
 RECOMMENDED STATUTORY CHANGES
 JUVENILE DEFENSE ATTORNEY INTERIM COMMITTEE

October 4, 2013

Submitted by Frances Smylie Brown, Chief Deputy Colorado State Public Defender

CHILDREN'S CODE

§ 19-2-507. Duty of officer--screening teams--notification--release or detention

(1) When a juvenile is taken into temporary custody and not released pending charges, the officer shall notify the screening team for the judicial district in which the juvenile is taken into custody. **THE SCREENING TEAM SHALL PROMPTLY NOTIFY THE COURT AND THE LOCAL PUBLIC DEFENDER'S OFFICE OF THE JUVENILE'S DETENTION.**

ADDITIONALLY, [t]he screening team shall notify the juvenile's parent, guardian, or legal custodian without unnecessary delay and inform him or her that, if the juvenile is placed in detention or a temporary holding facility, all parties have a right to a prompt hearing to determine whether the juvenile is to be detained further. Such notification may be made to a person with whom the juvenile is residing if a parent, guardian, or legal custodian cannot be located. If the screening team is unable to make such notification, it may be made by any law enforcement officer, juvenile probation officer, detention center counselor, or common jailor in whose physical custody the juvenile is placed.

(2) The juvenile shall be detained **ONLY** if the law enforcement officer or the court determines that the **JUVENILE IS A DANGER TO HIMSELF OR TO THE COMMUNITY**. ~~juvenile's immediate welfare or the protection of the community require that the juvenile be detained.~~ In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the detention of juvenile offenders which criteria are established in accordance with section 19-2-212.

(3) The juvenile shall be released to the care of such juvenile's parents or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that **THE JUVENILE IS A DANGER TO HIMSELF OR TO THE COMMUNITY** ~~such juvenile's immediate welfare or the protection of the community requires that such juvenile be detained.~~ The court may make reasonable orders as conditions of said release,

which conditions may include participation in a preadjudication service program established pursuant to section 19-2-302. ~~In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court.~~ The parent or other person to whom the juvenile is released shall be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. ~~Failure, without good cause, to comply with the promise shall subject the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.~~

(4)(a) Except as provided in paragraph (b) of this subsection (4), a juvenile shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain basic identification information and to contact his or her parents, guardian, or legal custodian.

(b) If he or she is not released as provided in subsection (3) of this section, he or she shall be taken directly to the court or to the place of detention, a temporary holding facility, or a shelter designated by the court without unnecessary delay.

(5) As an alternative to taking a juvenile into temporary custody pursuant to subsections (1), (3), and (4) of this section, a law enforcement officer may, if authorized by the establishment of a policy that permits such service by order of the chief judge of the judicial district or the presiding judge of the Denver juvenile court, which policy is established after consultation between such judge and the district attorney and law enforcement officials in the judicial district, serve a written promise to appear for juvenile proceedings based on any act that would constitute a felony, misdemeanor, or petty offense upon the juvenile and the juvenile's parent, guardian, or legal custodian. Such promise to appear pursuant to this subsection (5) shall state any charges against the juvenile and the date, time, and place where such juvenile shall be required to answer such charges. **THE PROMISE TO APPEAR SHALL ALSO INCLUDE, IN CLEAR AND UNDERSTANDABLE TERMS, THAT THE JUVENILE HAS THE RIGHT TO HAVE THE ASSISTANCE OF COUNSEL AT THE FIRST APPEARANCE, THAT COUNSEL MAY BE APPOINTED FOR THE JUVENILE IF THE JUVENILE AND/OR HIS/HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN CANNOT AFFORD COUNSEL, AND THAT IF THE JUVENILE CHOOSES TO RETAIN HIS/HER OWN COUNSEL THAT THE JUVENILE AND/OR HIS/HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN SHOULD CHOOSE COUNSEL THAT IS EXPERIENCED IN REPRESENTING JUVENILES IN THE JUVENILE JUSTICE SYSTEM. THE PROMISE TO**

APPEAR SHALL ALSO INCLUDE THE CONTACT INFORMATION FOR THE LOCAL PUBLIC DEFENDER OFFICE. The promise to appear shall be signed by the juvenile. The promise to appear shall be served upon the juvenile's parent, guardian, or legal custodian by personal service or by certified mail, return receipt requested. The date established for the juvenile and the juvenile's parent, guardian, or legal custodian to appear shall not be earlier than seven days nor later than thirty days after the promise to appear is served upon both the juvenile and the juvenile's parent, guardian, or legal custodian.

CHILDREN'S CODE

CRS §19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions

(1) A juvenile who must be taken from his or her home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention.

(2) When a juvenile is placed in a detention facility, in a temporary holding facility, or in a shelter facility designated by the court, the screening team shall promptly so notify the court **AND THE LOCAL PUBLIC DEFENDER'S OFFICE**. The screening team shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him or her of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold such detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.

(3) ALL JUVENILES DETAINED PURSUANT TO SUBSECTION (2) SHALL BE REPRESENTED AT THE DETENTION HEARING BY EITHER RETAINED OR APPOINTED COUNSEL. ANY JUVENILE WHO HAS NOT RETAINED COUNSEL WILL BE REPRESENTED AT THE DETENTION HEARING BY EITHER THE OFFICE OF THE STATE PUBLIC DEFENDER OR, IN THE CASE OF CONFLICT, BY THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL. THIS LIMITED REPRESENTATION WILL CONTINUE THROUGH THE FIRST ADVISEMENT, HELD PURSUANT TO SECTION 19-2-706, FOR ALL JUVENILES WHO ARE ORDERED FURTHER DETAINED BY THE COURT AFTER THE DETENTION HEARING UNLESS THE JUVENILE HAS RETAINED COUNSEL OR THE JUVENILE IS CHARGED WITH A WAIVABLE OFFENCE AND THERE IS A VALID WAIVER OF THE RIGHT TO COUNSEL PURSUANT TO SECTION 19-2-706(1)(B) AND (2)(C). IF, PURSUANT TO SUBSECTION (3)(A)(IV), THE JUVENILE IS RELEASED AFTER THE DETENTION HEARING, THE JUVENILE AND/OR HIS/HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN SHALL BE INFORMED OF THE PROCEDURES FOR APPLYING FOR PUBLIC DEFENDER REPRESENTATION.

(3)(4)(a)(I) A juvenile taken into custody pursuant to this article and placed in a detention or shelter facility or a temporary holding facility shall be entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such

placement to determine if he or she should be detained. **THE DETENTION HEARING SHALL BE SCHEDULED FOR A TIME THAT ALLOWS SUFFICIENT TIME FOR COUNSEL TO CONSULT WITH THE JUVENILE BEFORE THE DETENTION HEARING.** The time in which the hearing shall be held may be extended for a reasonable time by order of the court upon good cause shown.

(II) ANY SCREENING MATERIAL AND OTHER RELEVANT DOCUMENTS, INCLUDING ALL DISCOVERY, SHALL BE PROVIDED TO COUNSEL BEFORE THE DETENTION HEARING.

(H)(III) The **ONLY** primary purpose of a detention hearing shall be to determine if a juvenile should be detained further and to define conditions under which he or she may be released, if his or her release is appropriate. A detention hearing shall not be **COMBINED WITH** considered a preliminary hearing **OR A FIRST ADVISEMENT. DUE TO THE LIMITED SCOPE OF A DETENTION HEARING, REPRESENTATION OF A JUVENILE BY APPOINTED COUNSEL WOULD NOT CREATE A CONFLICT WITH SUBSEQUENT REPRESENTATION OF OTHER INDIVIDUALS RELATED TO THE CASE.**

(III) With respect to this section, the court may further detain the juvenile **ONLY** if the court ~~is satisfied~~ **FINDS** from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community. Any information having probative value shall be received regardless of its admissibility under the rules of evidence. In determining whether a juvenile requires detention, the court shall consider any record of any prior adjudications of the juvenile. There shall be a rebuttable presumption that a juvenile is a danger to himself or herself or to the community if:

...

CHILDREN'S CODE
CRS §19-2-706 Advisement

(1)(a) At the first appearance before the court after the filing of a petition, the juvenile and his or her parents, guardian, or other legal custodian shall be advised by the court of their constitutional and legal rights as set forth in rule 3 of the Colorado rules of juvenile procedure. Such advisement shall also include the possibility of restorative justice practices, including victim-offender conferences if restorative justice practices are available in the jurisdiction. The advisement regarding restorative justice practices does not establish any right to restorative justice practices on behalf of the juvenile.

(1)(b) THE COURT MAY ACCEPT A WAIVER OF COUNSEL ONLY AFTER DETERMINING, IN LANGUAGE APPROPRIATE TO THE JUVENILE'S DEVELOPMENTAL STAGE, THAT THE WAIVER IS KNOWING, INTELLIGENT AND VOLUNTARY WHICH INCLUDES DETERMINING:

- i. THAT THE JUVENILE UNDERSTANDS ALL THE POSSIBLE CONSEQUENCES OF THE CONVICTION,**
- ii. THAT THE JUVENILE UNDERSTANDS ALL THE POSSIBLE SENTENCING OPTIONS,**
- iii. THAT THE WAIVER IS NOT THE RESULT OF PARENTAL PRESSURE, AND**
- iv. THE YOUTH UNDERSTANDS THAT QUALIFIED COUNSEL WILL BE PROVIDED IF THE JUVENILE'S PARENTS, GUARDIAN OR OTHER LEGAL CUSTODIAN IS UNABLE OR UNWILLING TO OBTAIN COUNSEL FOR THE JUVENILE.**

(2)(a) If the juvenile or his or her parents, guardian, or other legal custodian requests counsel and the juvenile or his or her parents, guardian, or other legal custodian is found to be without sufficient financial means, or the juvenile's parents, guardian, or other legal custodian refuses to retain counsel for said juvenile, the court shall appoint counsel for the juvenile.

(b) If the court appoints counsel for the juvenile because of the refusal of the parents, guardian, or other legal custodian to retain counsel for the juvenile, the parents, guardian, or legal custodian, other than a county department of social services or the department of human services, shall be ordered to reimburse the ~~court~~ **AGENCY PROVIDING COUNSEL** for the cost of the counsel unless the court finds there was good cause for such refusal.

(c) The court may appoint counsel without such request if it deems representation by counsel is necessary to protect the interests of the juvenile or other parties. **THE GENERAL ASSEMBLY HEREBY DETERMINES THAT COUNSEL IS NECESSARY TO PROTECT THE INTEREST OF THE JUVENILE, AND THEREFORE SHALL BE APPOINTED IF NOT RETAINED OR APPOINTED PURSUANT TO SECTION (A) AND (B) ABOVE, IN ALL CASES WHERE THE JUVENILE IS CHARGED WITH AN OFFENCE THAT REQUIRES MANDATORY SENTENCING, WITH A SEX OFFENCE, WITH A CRIME OF VIOLENCE, AS A MANDATORY SENTENCE OFFENDER, AS A REPEAT JUVENILE OFFENDER OR AS AN AGGRAVATED JUVENILE OFFENDER OR WHERE THE JUVENILE IS IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICE OR THE DEPARTMENT OF HUMAN SERVICES.**

d) **IF THE JUVENILE IS ENTITLED TO PUBLIC DEFENDER OR ALTERNATE DEFENSE COUNSEL REPRESENTATION PURSUANT TO SECTION 19-2-508, THAT REPRESENTATION SHALL CONTINUE THROUGH THE FIRST ADVISEMENT IF THE JUVENILE IS STILL DETAINED OR IF THE JUVENILE OR HIS/HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN HAVE APPLIED AND HAVE BEEN DETERMINED TO BE ELIGIBLE FOR REPRESENTATION PURSUANT TO SECTION 21-1-103(2) UNLESS THE JUVENILE HAS RETAINED COUNSEL OR THE JUVENILE IS CHARGED WITH A SAVABLE OFFENCE AND THERE IS A VALID WAIVER OF THE RIGHT TO COUNSEL PURSUANT TO SECTION 19-2-706(1)(B) AND (2)(C).** If the juvenile has been appointed counsel ~~The appointment of counsel pursuant to this~~ subsection (2) **OF THIS STATUTE, THAT APPOINTMENT** shall continue until such time as the court's jurisdiction is terminated or until such time as the court finds that the juvenile or his or her parents, guardian, or other legal custodian has sufficient financial means to retain counsel or that the juvenile's parents, guardian, or other legal custodian no longer refuses to retain counsel for the juvenile.

STATE PUBLIC DEFENDER

CRS §21-1-103. Representation of indigent persons

(1) The state public defender shall represent as counsel, without charge except as provided in subsection (3) of this section, each indigent person who is under arrest for or charged with committing a felony if:

(a) The defendant requests it and he complies with subsection (3) of this section; or

(b) The court, on its own motion or otherwise, so orders and the defendant does not affirmatively reject, of record, the opportunity to be represented by legal counsel in the proceeding. When appointed by the court, the office of the state public defender shall be limited to defending the indigent person and shall not be appointed to act as advisory counsel. The court shall not appoint a public defender to represent a defendant if such defendant does not fall within the fiscal standards or guidelines established by the supreme court for appointment of public defenders.

(2) Except as provided in section 16-5-501, C.R.S., the state public defender shall represent indigent persons charged in any court with crimes which constitute misdemeanors; juveniles upon whom a delinquency petition is filed or who are in any way restrained by court order, process, or otherwise; persons held in any institution against their will by process or otherwise for the treatment of any disease or disorder or confined for the protection of the public; and such persons charged with municipal code violations as the state public defender in his or her discretion may determine, subject to review by the court if:

Editor's note: This version of the introductory portion to subsection (2) is effective until January 1, 2014.

(2) The state public defender shall represent indigent persons charged in any court with crimes which constitute misdemeanors and in which the charged offense includes a possible sentence of incarceration; juveniles upon whom a delinquency petition is filed or who are in any way restrained by court order, process, or otherwise; persons held in any institution against their will by process or otherwise for the treatment of any disease or disorder or confined for the protection of the public; and such persons charged with municipal code violations as the state public defender in his or her discretion may

determine, subject to review by the court if:

Editor's note: This version of the introductory portion to subsection (2) is effective January 1, 2014.

(a) The indigent person or his parent or legal guardian in delinquency or other actions under article 2 of title 19, C.R.S., requests it and complies with subsection (3) of this section; or

(b) The court, on its own motion or otherwise, so orders or requests and the defendant or his or her parent or legal guardian in delinquency or other actions under article 2 of title 19, C.R.S., does not affirmatively reject, of record, the opportunity to be represented by legal counsel in the proceeding. The court shall not appoint a public defender to represent the defendant, or his or her parent or legal guardian, if such person does not fall within the fiscal standards or guidelines established by the supreme court.

(3) The determination of indigency shall be made by the state public defender, subject to review by the court. When a defendant or, if applicable, the defendant's parent or legal guardian requests representation by a public defender, such person shall submit an appropriate application, the form of which shall state that such application is signed under oath and under the penalty of perjury and that a false statement may be prosecuted as such. A nonrefundable processing fee of twenty-five dollars shall be paid by the applicant if the court-appointed counsel enters an appearance based upon the application. The fee shall be assessed at the time of sentencing, or adjudication, if sentencing or adjudication occurs, or upon other final disposition of the case; except that the court may, at sentencing, adjudication, or other final disposition, waive the fee if the court determines, based upon the financial information submitted by the party being represented by the court-appointed counsel, that the person does not have the financial resources to pay the fee. Before the court appoints a public defender based on said application, the court shall advise the defendant or, if applicable, the defendant's parent or legal guardian that the application is signed under oath and under the penalty of perjury. A copy of the application shall be sent to the prosecuting attorney for review, and, upon request, the court shall hold a hearing on the issue of the eligibility for appointment of the public defender's office. Processing fees collected pursuant to this subsection (3) shall be transmitted to the state treasurer, who shall credit the same to the general fund.

4(a) NOTWITHSTANDING THE REQUIREMENTS OF SECTION (3), THE STATE PUBLIC DEFENDER MAY, BEFORE DETERMINING INDIGENCY, AUTOMATICALLY ELECT TO REPRESENT A DEFENDANT IN CUSTODY WHO CANNOT POST OR IS NOT ALLOWED TO POST BOND.

(b) NOTWITHSTANDING THE REQUIREMENTS OF SECTION (3), THE STATE PUBLIC DEFENDER SHALL, BEFORE DETERMINING INDIGENCY, REPRESENT ALL UNREPRESENTED JUVENILES IN DETENTION HEARINGS, EXCEPT IN THE CASE OF CONFLICTS WHEREIN THE OFFICE OF ALTERNATE DEFENSE COUNSEL WILL PROVIDE REPRESENTATION. THE STATE PUBLIC DEFENDER SHALL CONTINUE TO REPRESENT THE JUVENILE THROUGH THE FIRST ADVISEMENT IF THE JUVENILE IS STILL DETAINED OR IF THE JUVENILE OR HIS/HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN HAVE APPLIED AND HAVE BEEN DETERMINED TO BE ELIGIBLE FOR REPRESENTATION PURSUANT TO SUBSECTION (2) UNLESS THE JUVENILE HAS RETAINED COUNSEL OR THE JUVENILE IS CHARGED WITH A WAIVABLE OFFENCE AND THERE IS A VALID WAIVER OF THE RIGHT TO COUNSEL PURSUANT TO SECTION 19-2-706(1)(B) AND (2)(C).

(4)(5) Nothing in this section shall be construed to authorize the public defender to represent or advise any person who is physically outside the state of Colorado and who has not made a court appearance in the pending matter in the state of Colorado.

Recommendations for the Interim Committee to Study Juvenile Defense

Submitted by Kim Dvorchak, Esq., Executive Director, Colorado Juvenile Defender Coalition

Summary of Recommendations:

1. Provides counsel at detention hearings and first appearances
2. Provides presumption of indigence
3. Sets limits on waiver of counsel by age, offense, and consultation with counsel
4. Provides contact information for public defender on summons
5. Clarifies role of Guardian ad Litem
6. Provides specialization in juvenile defense
7. Provides data collection and systems monitoring

Regarding Appointment of Counsel, Presumption of Indigence, and Waiver of Counsel

§ 19-2-706. ADVISEMENT OF RIGHTS AND THE RIGHT TO COUNSEL [NEW TITLE]

(1) At the first appearance before the court ~~after the filing of a petition~~, the juvenile and his or her parents, guardian, or other legal custodian shall be advised by the court of their constitutional and legal rights as set forth in rule 3 of the Colorado rules of juvenile procedure, INCLUDING THE RIGHT TO COUNSEL AT THE FIRST APPEARANCE AND/OR DETENTION HEARING. Such advisement shall include the possibility of restorative justice practices, including victim-offender conferences if restorative justice practices are available in the jurisdiction. The advisement regarding restorative justice practices does not establish any right to restorative justice practices on behalf of the juvenile.

~~(2)(a) If the juvenile or his or her parents, guardian, or other legal custodian requests counsel and the juvenile or his or her parents, guardian, or other legal custodian is found to be without sufficient financial means, or the juvenile's parents, guardian, or other legal custodian refuses to retain counsel for said juvenile, the court shall appoint counsel for the juvenile.~~
 THE COURT SHALL APPOINT DEFENSE COUNSEL FOR THE JUVENILE UNLESS THE JUVENILE HAS RETAINED COUNSEL OR THE JUVENILE HAS ENTERED A VALID WAIVER OF COUNSEL PURSUANT TO 19-2-706(2)(c).

~~(b) If the court appoints counsel for the juvenile because of the refusal of the parents, guardian, or other legal custodian to retain counsel for the juvenile, the parents, guardian, or legal custodian, other than a county department of social services or the department of human services, shall be ordered to reimburse the court for the cost of the counsel unless the court finds there was good cause for such refusal.~~ ALL JUVENILES SHALL BE PRESUMED INDIGENT FOR THE PURPOSE OF OBTAINING COURT APPOINTED COUNSEL UNDER TITLE 21.

~~(c) The court may appoint counsel without such request if it deems representation by counsel necessary to protect the interest of the juvenile or of other parties.~~

(C) THE COURT MAY ACCEPT A WAIVER OF COUNSEL BY A JUVENILE 15 YEARS OF AGE OR OLDER AFTER THE JUVENILE HAS HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THE DIRECT AND COLLATERAL CONSEQUENCES IN THE CASE, AND THE COURT FINDS THE WAIVER OF COUNSEL

IS KNOWING, INTELLIGENT, VOLUNTARY, AND NOT THE RESULT OF PARENTAL PRESSURE, OR THE ADVICE OF A PARENT OR GUARDIAN WITH A CONFLICT OF INTEREST WITH THE CHILD. THE COURT SHALL NOT ACCEPT A WAIVER OF COUNSEL BY ANY JUVENILE ACCUSED OF A SEX OFFENSE, A JUVENILE PLEADING GUILTY TO A FELONY OFFENSE, OR A JUVENILE FACING DETENTION OR OUT OF HOME PLACEMENT.

(d) The appointment of counsel pursuant to this subsection (2) shall continue until such time as the court's jurisdiction is terminated ~~or until such time as the court finds that the juvenile or his or her parents, guardian, or other legal custodian has sufficient financial means to retain counsel or that the juvenile's parents, guardian, or other legal custodian no longer refuses to retain counsel for the juvenile.~~

§ 19-2-508. Detention and shelter [ONLY SECTIONS (1)-(3)(A)(I) SHOWN HERE]

(1) A juvenile who must be taken from his or her home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention.

(2) When a juvenile is placed in a detention facility, in a temporary holding facility, or in a shelter facility designated by the court, the screening team shall promptly so notify the court AND THE OFFICE OF THE PUBLIC DEFENDER. The screening team shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him or her of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold such detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.

(3)(a)(I) A juvenile taken into custody pursuant to this article and placed in a detention or shelter facility or a temporary holding facility shall be entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such placement to determine if he or she should be detained. The time in which the hearing shall be held may be extended for a reasonable time by order of the court upon good cause shown. THE JUVENILE SHALL BE REPRESENTED BY DEFENSE COUNSEL.

Regarding Notification and Summons Procedures

See above regarding notification of public defender in 19-2-508.

§ 19-2-514. Summons--issuance--contents—service [SECTION (1) SHOWN HERE]

(1) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons shall set forth the constitutional and legal rights of the juvenile, including the right to have an attorney present at the hearing on the petition. THE SUMMONS SHALL EXPLAIN THAT COUNSEL WILL BE APPOINTED FOR JUVENILES WHO DO NOT RETAIN PRIVATE COUNSEL AND INCLUDE THE ADDRESS AND PHONE NUMBER FOR THE PUBLIC DEFENDER'S OFFICE SERVING THE JURISDICTION OF THAT COURT.

Regarding the Role of the Guardian ad Litem:

§ 19-1-111. Appointment of guardian ad litem [ONLY SUBSECTION (2)(A) SHOWN]

(2) The court may appoint a guardian ad litem in the following cases:

(a) For a child in a delinquency proceeding where:

(I) No parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent appears at the first or any subsequent hearing in the case;

(II) The court finds that a conflict of interest exists between the child and parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent; or

(III) The court makes specific findings that the appointment of a guardian ad litem is necessary to serve the best interests of the child and such specific findings are included in the court's order of appointment; AND

(IV) THE GUARDIAN AD LITEM IS NOT BEING APPOINTED AS A SUBSTITUTE FOR DEFENSE COUNSEL FOR THE JUVENILE.

Regarding Specialization in Juvenile Defense and Systems Accountability

Once access to counsel is established, it is vital to ensure that access is meaningful and that children across the State of Colorado are represented by dedicated, well-trained attorneys that advocate for their clients legal interests while seeking the best outcomes possible for children. There are different ways Colorado can achieve this:

Option 1:

Resource the Office of the State Public Defender and the Office of the Alternate Defense Counsel for the purpose of establishing statewide coordinators of juvenile defense, and for resourcing attorneys and teams that specialize in representing children defense. Statewide coordinators would be responsible for:

- Developing criteria for the selection of juvenile defenders for juvenile court positions
- Developing training and standards of practice for juvenile defense
- Providing ongoing litigation support to juvenile defenders
- Facilitating communication between state agencies to ensure access to counsel for children, and improve practices in the juvenile justice system
- Ensuring juvenile defenders and juvenile supervisors have pay parity with district court
- Monitoring juvenile delinquency matters and analyzing juvenile justice policies

Option 2:

Establish a Juvenile Defense Division within the Office of the State Public Defender. The Juvenile Defense Division would hire, train, supervise, and support juvenile defenders, investigators, social workers, etc. in delinquency cases to ensure specialization in juvenile defense. Resources would be allocated to the Office of the Alternate Defense Counsel to provide for juvenile defense coordination. The Chief of the Juvenile Defense Division would be responsible for the duties described above and provide leadership on a state and local level. The Juvenile Defense Division should have supervisory autonomy and budgetary assurances to protect resources necessary to the effective representation and advocacy of children.

Option 3:

Establish an Office of the Juvenile Defender, an independent state agency responsible for representing children in juvenile delinquency cases in the same manner as described above for the Juvenile Defense Division. This approach would eliminate resource conflict between adult and juvenile client interests within indigent defense delivery systems. Again, resources would be allocated to the Alternate Defense Counsel to support juvenile defense. Dedicated juvenile defense offices are uniquely placed to provide holistic representation of the child through multi-disciplinary teams, and can be more responsive to the specific needs of developing children.

Option 4:

Establish an independent State Juvenile Defender or Ombudsman of Juvenile Defense responsible for oversight, monitoring and support of juvenile defense delivery systems; specifically monitoring access to counsel, waivers of counsel, and improving standards of practice in juvenile defense. This could even be a temporary position to monitor reform over the next few years and report back to the legislature.

Data Collection & Monitoring

Collect data on:

- Waivers of counsel
- Indigence determinations (if no presumption)
- Parent refusal cases (if no presumption)
- Ensure appearance of counsel attaches to each event in the case

Establish annual reporting requirements of indigent defense delivery systems on the concerns of this interim committee and on the training, resources, and support provided to the representation of children.

Join us for an Exclusive Pre-release Film Screening:

**Sunday, October 13, 2013
6:00 PM – 9:00 PM**

**University of Colorado School
of Law, Wolf Law Building**

**Hosted by the Colorado
Juvenile Defender Coalition**

Free Admission with RSVP:

CLICK HERE: <http://goo.gl/kKglDU>

**YOU MUST Register IN ORDER
TO BE ADMITTED! Thank you!**

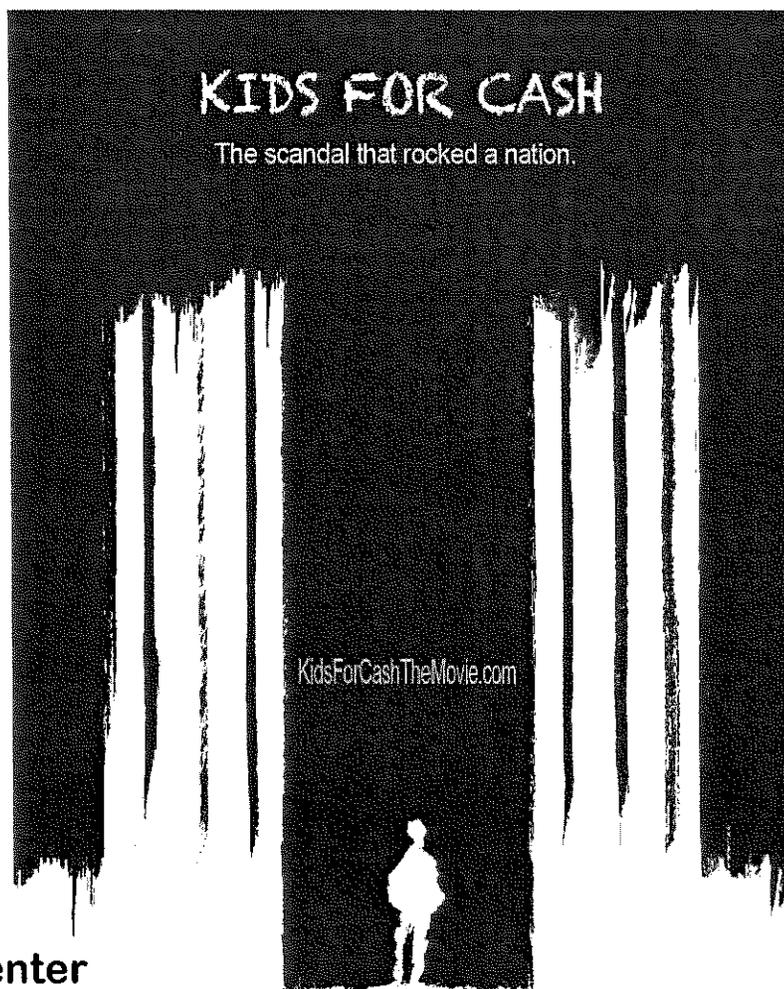
**Post-screening discussion
featuring:**

Marsha Levick, Juvenile Law Center

Bob Listenbee, Administrator, OJJDP

Robert May, Producer/Director, SenArt Films

Kim Dvorchak, Colorado Juvenile Defender Coalition



SenArt Films™
ACTIVE voice®

KIDS FOR CASH is a riveting look behind the notorious scandal that rocked the nation. It exposes a shocking American secret: We as a country continue to bring hundreds of thousands of youth into the juvenile justice system for minor offenses – even though arresting, detaining and incarcerating youth is expensive, ineffective, causes everlasting damage to children and their families and has little impact on public safety. Beyond the millions paid and the high stakes corruption it exposes, KIDS FOR CASH highlights the need for system accountability and continual community engagement.

**Do you have a personal story about the juvenile justice system?
Share it with the "Got Prints?" campaign:**



MacArthur
Foundation

info@cjdc.org
303-825-2045



Juvenile Trainings 2005-Present

June 2005

New Hire/Intern Training
Introduction to Juvenile Court

September 2005

(No juvenile topics offered)

June 2006

New Hire/Intern Training
Introduction to Juvenile Court

September 2006

Annual Conference
Nuts & Bolts & Juvenile Hot Topics

June 2007

New Hire/Intern Training
Introduction to Juvenile Court

September 2007

Annual Conference
A Walk through the Children's Code: Juvenile Law Primer

Defending Your Juvenile Client against the
Multidisciplinary Team

Appeals from Juvenile and County Court Convictions

Intellectual and Developmental Disabilities: It's Not
Mentally Retarded, Anymore

Legal Issues Regarding MySpace & Facebook

June 2008

New Hire/Intern Training

Introduction to Juvenile Court

September 2008

Annual Conference

Mental Condition Defense for the Young and
Resourceless

Client-Centered Representation: How to Develop a
Relationship that Empowers Your Juvenile Client and
Keeps You on the Same Team

Hot Topics in Juvenile Law

What the *Bleep* is a D & N?

Juvenile Competency: A Whole Different Animal

Juvenile Suppression Issues

June 2009

New Hire/Intern Training

Introduction to Juvenile Court

September 2009

Annual Conference

Unring the Bell before Trial: Suppressing Juvenile
Statements and Evidence

Hot Topics in Juvenile Law

June 2010

New Hire/Intern Training

Introduction to Juvenile Court

September 2010

Annual Conference

Defending Sexting Cases in Juvenile Court

From Cradle to Jail: Juvenile Transfer Hearings &
Mitigation in Adult Court

Making the School Search Unconstitutional

Direct and Collateral Consequences of JV Adjudications

November 2010

New Hire/Intern Training
Introduction to Juvenile Court

January 2011

Brown bag webinar
PTSD & Learning Disabilities: How They Relate to
Miranda.

June 2011

New Hire/Intern Training
Introduction to Juvenile Court

August 2011

Juvenile Brownbag Webinar
Juvenile Direct Filing and Medical Marijuana

September 2011

Annual Conference
Advocating For Proper Treatment for Juveniles
Who Have Committed Sexual Offenses: What Works?
What Hurts?

Advising Juvenile Clients Regarding Collateral
Consequences of Sex Offenses

Litigating the Shackling Of Juveniles

The New-And-Not-So-Improved Juvenile Direct File: A
Team Approach for Lawyers and Investigators

November 2011

New Hire/Intern Training
Introduction to Juvenile Court

April 2012

Juvenile Brownbag Webinar
Fundamentals of Advising a Juvenile Client

May 2012

Juvenile Brownbag Webinar
Sentencing Alternatives for Juveniles

June 2012

New Hire/Intern Training
Introduction to Juvenile Court

Juvenile Brownbag Webinar
Getting Your Juvenile Client Out of Pre-Trial Custody

August 2012

Juvenile Brownbag Webinar
Humanizing Your Juvenile Client

Juvenile Brownbag Webinar
Juvenile Miranda Litigation

September 2012

Annual Conference
Juvenile Sexual Offenders

Language disorders in kids

Juvenile Sexual Offenders

JV Hot Topics

Fetal Alcohol Syndrome in the Criminal System

Miller V. Alabama and Juv Law

Direct file/Agg. JV offender bills

Juvenile Registration

Developmental Delay and Confessions

October 2012

Juvenile Brownbag/Webinar

Juvenile Mitigation

May 2013

New Hire/Intern Training

Introduction to Juvenile Court

Juvenile Webinar (all day)

Reverse and Transfer Hearings

June 2013

Overview of the CJRA Brownbag/webinar

September 2013

Annual Conference

Findings from the Pathways to Desistance Study (Dr. Edward Mulvey, University of Pittsburgh/MacArthur Foundation) (double session)

A Presumption of Release: Zealous Detention Advocacy

Transfer and Reverse Transfer Hearings: Keeping Your Kid In Juvenile Court (double session)

Combatting a Child-Sized Portion of Due Process in Juvenile Court With An Aggressive Motions Practice

Juvenile Brownbag/Webinar

Immigration issues and juvenile clients

October 2013

Juvenile Brownbag/Webinar

Representing GLBT Youth