

**Office of the Child Advocate  
Juvenile Justice Policy and Data Board - CBI Subcommittee Meeting Minutes  
Monday, April 8th, 2019**

**Subcommittee Members or Designees Present**

- Maria Mossaides (OCA)
- Colleen O'Donnell (Probation)
- Chief Kevin Kennedy (Chiefs of Police Association)
- Gretchen Carlton (DCF)
- Mike Glennon (MDAA)
- Sana Fadel (CfJJ)
- Nancy Connolly (DMH)

**Other Attendees:**

- Melissa Threadgill (OCA)
- Lindsay Morgia (OCA)
- Sean Cronin (Plymouth County DA's Office)
- Ms. Krippendorf (Norfolk County DA's Office)
- Kathy Quatramoni (Cape and Island DA's Office)
- Tara Maguire (MDAA)

**Meeting Commenced: 2:08PM**

**Welcome and Introductions**

Ms. Threadgill welcomed the subcommittee and guests from the District Attorneys' offices. The group went around the table to introduce themselves.

**Approval of Minutes from March 1st Meeting**

Ms. Threadgill asked if there was any feedback on the minutes from the last meeting. Chief Kennedy had two edits:

1. On page 2, second paragraph, 3rd sentence: Following "youth should not be detained" the words should be added "in the police station for any longer than necessary."
2. 3rd paragraph: Unified Crime Report should be changed to Uniform Crime Report

Ms. Threadgill said that we will make the corrections. The meeting minutes were approved under the condition of these changes.

**Update re: Community-Based Interventions Survey**

Ms. Threadgill reminded the group that the community-based intervention surveys are in the field. Ms. Threadgill asked the group to share the survey with their contacts. It will likely take a couple of months to gather responses to the survey, so the goal is to share the results in June. Ms. Threadgill thanked the group for their feedback on the survey text.

## **Presentations on District Attorney Diversion in Massachusetts**

Ms. Threadgill told the group that we will begin our presentations on DA diversion with Suffolk County, followed by the Cape and Islands. She invited other representatives from the DAs' offices to share what they are doing for diversion as well, and then we can discuss the ways that the state can be supportive of efforts to increase the use of juvenile diversion.

### *Suffolk County DA's Office*

Mr. Glennon said that he usually attends these meetings as the representative for the MDAA, but today he is here to talk about the Suffolk County DA diversion program. Mr. Glennon is the Deputy Chief of the juvenile department and created and oversees the diversion program. Mr. Glennon said that DA diversion is important because the DAs have control of many decision points during the process. The goal is to improve outcomes, but it is difficult to determine how to measure success. There is recognition that not being labeled as a defendant can be a benefit for youth. Through diversion, they are attempting to meet the needs of youth and also collect data.

The Suffolk County program is known as Juvenile Alternative Resolution (JAR). JAR uses specific risk and needs assessment tools, and said that they do not provide services in-house. Suffolk recognizes that it is a resource-rich area with many options for services. Mr. Glennon said that the diversion program aims to place youth with the right provider to meet their needs and decrease criminogenic factors.

Mr. Glennon said that their diversion program has two parts. About 45% of the cases, such as shoplifting or fighting, are placed in informal diversion. Another 20% are put in JAR. These youth have higher risks and needs, and in some cases may have already been arraigned. The office uses the Ohio Youth Assessment System (OYAS) tool to determine if a youth is low, moderate, or high risk for reoffending. Youth that are formally diverted to JAR tend to fall into the moderate and high categories.

Mr. Glennon said that the office's diversion coordinator works with families and administers the Youth Level Services/Case Management Inventory (YLS/CMI). There are also extensive interviews, and the youth and family are connected to an agency that can assist them. Ms. O'Donnell asked if this was done pre-arraignment, and Mr. Glennon replied yes. Mr. Glennon said the office works with 20 community partners that provide mental and trauma services, though they do not have many for substance abuse.

Mr. Glennon said there are charges that would make a youth exempt from JAR, including cases that result in a serious bodily injury. They also do not accept sexual assault charges, as there are specific treatment models for these cases.

Mr. Glennon said that every youth is assessed with the OYAS Diversion tool at arraignment. This means that the DA has to speak with the family, which humanizes the process. Only JAR youth receive the YLS/CMI assessment tool, and that collects about 100 data points on each youth. For OYAS, the DA's office created the top portion of the form for data

collection purposes and to add a few questions about recidivism. The YLS gives a print out of eight criminogenic needs and rates each as low, moderate, or high. They often receive high scores on the attitudes section.

Mr. Glennon shared some demographic data with the group. Black non-Hispanic and black Hispanic youth make up over 80% of the population. The question the office tries to answer in analyzing the data is whether or not they are administering the program consistently, and if not, why not? It is an oversimplified picture, but when we look at the demographic profile of youth being referred to the office, youth being diverted and youth being arraigned, we want to see similarities across the board – which is currently the case with the Suffolk JAR program.

The OYAS data is generally a bell curve of what one might expect; those who receive informal diversion are on the lower end of the risk scale. Those who have been arraigned are on the higher end, in the 4/5/6 area. JAR youth are in the mid/high end of the scale. These distributions suggest that the implementation of the program is going as expected.

Mr. Glennon shared that while most of their youth are male, they are seeing more high-level females recently. In addition, 76% had their first contact with the juvenile system at or before age 15, which is a risk factor, and 87% had a close family member in prison. Almost all of their youth seem to know someone in prison. The hope is over the long-term, both of these risk factors will decrease.

Ms. Mossaides asked about the definition of “close family member.” Mr. Glennon said that they leave it up to the youth to decide. In addition, all race/ethnicity data is self-reported. It is an interesting process, as youth tend to not differentiate between black, Hispanic, and white, sharing that a pair of twins identified themselves differently. This has been a learning process for the office.

Mr. Glennon that the JAR and YLS data show exactly what they would hope to see based on the program design; there should not be many very high risk youth in the program, and there also shouldn't be many low risk youth, which is what the pie chart demonstrates. He also shared data from the probation data dashboard, which showed that a few months after implementation of DA diversion, the number of probation cases in Suffolk County were cut in half. Statewide caseloads were decreasing as well during that time, but not as rapidly as in Suffolk County.

Finally, Mr. Glennon shared the names of some of their community partners. They have MOUs with these organizations with clear roles and relationships for each. The office has taken 120 cases into formal diversion; 53 youth completed the program successfully, 11 were removed, and the remaining youth are still in the program.

Ms. Fadel thanked Mr. Glennon for the presentation. She asked if the chart regarding family members in prison reflects data from the higher-risk screening.

Mr. Glennon said that there is a question on the OYAS that asks about family members in prison. In the last decade, studies have shown that a youth is more likely to return to the system

if they have a family member in prison. The office is trying to avoid putting the youth back in the community with no services.

Mr. Glennon continued by saying prosecutors have discretion throughout the process. A prosecutor may decide to place a child in informal diversion after talking to the parents. Their focus is on the kids that would have been arraigned, and they are conscious of overrepresentation. For instance, they changed their “low” score to 0-3 because so many charges in Massachusetts are felonies that might be a misdemeanor in another state, and the original scoring of the tool meant that a youth with a charged felony could not be a low.

Ms. O’Donnell said that the Suffolk program is amazing, and that they do not have anything like it in Essex county. She asked if the program eliminated the need for court diversion. Mr. Glennon said Suffolk hasn’t had judicial diversion since the implementation of the DA diversion program, which keeps in the DAs in control, as they know the youth and the community partners.

Ms. Krippendorf asked about the amount of time youth spend in diversion. Mr. Glennon said for formal diversion, it can be 6 months, 9 months, or a year. These timelines can be extended as needed. Informal diversion is up to the prosecutor. One of the problems has been judging the needs of youth as attorneys, not practitioners, but information sharing is improving. Informal diversion can be one month or 6-12 months.

Chief Kennedy asked if families were open to answering questions on the OYAS. Mr. Glennon mentioned that the defense bar was apprehensive about this. But the process does not involve the defense, and Mr. Glennon finds the families to be very open.

Ms. Carleton asked about youth in DCF custody who may come in on a low-level offense and are placed in foster care or a group home. Mr. Glennon said they do not want to overlap resources, so they work on these cases with DCF. One of the biggest challenges they face is that kids move around frequently and it can be difficult to keep track of them.

Ms. Carleton asked about using 211, and Chief Kennedy said that was for runaways only. Ms. Carleton then asked about CRAs and other cases that come before the court frequently. Mr. Glennon said that many of the cases get pushed to the child welfare side. The DAs do not sit in on CRA hearings.

Ms. O’Donnell shared that their court probation uses OYAS, and that they received training on this. If the result is “high”, they cannot divert the youth. One of the problems they face is that judges do not use the tool. Instead, they waive it and make decisions based on the case. She wishes that the DAs could do this instead. Mr. Glennon said that they use their discretion.

Ms. Krippendorf noted that Suffolk has the resources to be able to do something like this, and that other areas don’t have the same resources. Mr. Glennon added that they cover a small geographic area that has public transportation. Ms. Krippendorf noted that public transit is a huge problem in Norfolk.

Mr. Glennon shared that sometimes they run into safety concerns regarding transportation, as there are certain places in the city some youth cannot go. Also, the DA's office contributes by funding a diversion coordinator.

Ms. Mossaides agreed that Suffolk and Middlesex have the resources, but imagines the Commonwealth is picking up some of the cost. She asked about CBHI and who is responsible for connecting youth to MassHealth. Mr. Glennon said that the diversion coordinator and community partners work together on this, and that the DA's office support partners in other ways to help them get grant money. Ms. Mossaides said that this is an interesting question to consider; how much is picked up by the state, and where are the gaps?

Mr. Cronin said that in Plymouth, addressing gaps in services is a huge challenge. They also face transit issues. Ms. Mossaides noted that part of the gap is the transportation gap. The Commonwealth has a transportation group in human services, so we are not without resources on this.

#### *Cape and Islands DA's Office*

Ms. Quatromoni from the Cape and Islands DA's Office thanked the group for having her and gave her presentation based on the set of questions Ms. Threadgill had sent to her previously. First, she discussed eligibility for their diversion program. Youth must be willing to accept responsibility for their actions, otherwise they will be denied entry into diversion. An ADA and case worker review the case, which happens pre-arraignment. Almost all diversion cases last for 6 months. Youth are offered diversion for a first offense. She also shared that for young adults between the ages of 18-24, there is diversion available as well.

Ms. Quatromoni said that at intake, youth are screened for depression and complete a BSAS screen (substance abuse). Assessments are done after screenings, and if the assessment indicates a need for more services, a case worker oversees the case. Often times, diversion includes a letter of apology, but the youth typically does not meet with the victim. There are elements of restorative justice in their program, but it is not the entire approach.

Ms. Quatromoni said that they coordinate with law enforcement and hear their recommendations. Because of the change in the law, police are having an issue doing what they normally do. If a child fails to meet a condition of a court order, they do not bring the hammer down as a punishment. However, if a child commits a second offense, they will be removed from the diversion program.

Ms. Quatromoni shared that in the past, they would mandate conditions such as collecting restitution or community service. Now, they give youth the chance to decide for themselves what kind of service they will perform. This has worked out well, and there are now 200 community service sites that youth can choose from. The DA's office explains the diversion program to the community service sites and that they have liability insurance. The community service site only needs to fill out the paperwork and send it back.

Ms. Quatromoni said that all of the counseling agencies that they work with are trauma-informed. Their diversion program has a good completion rate, with 87% finishing the program.

Ms. Quatromoni said that the office is using an online program called 3rd Millennium that provides online behavior classes for youth. In addition, they have the Choices and Consequences program, where adult inmates come and talk to youth about life in prison. The office also started a truancy prevention program in K-3, which improved the situation. The Family Resource Center have been a boon to their work, and someone from the FRC attends every case meeting.

Ms. Quatromoni said that they had a database from the beginning and have changed the way they collect race and ethnicity data at the time. Originally they were using the categories provided by the Census. Ms. Threadgill asked if youth self-report, and Ms. Quatromoni said that they do. This data is used for grants.

Ms. Mossaides said that one issue is that we haven't made the decision to capture race and ethnicity in the same way across state agencies. There may be federal requirements about this, which makes it difficult to compare data sets. There was a question regarding whether or not the office tracked who declined diversion. Ms. Quatromoni said that she has the raw numbers, but they are not broken down by race or ethnicity.

Regarding barriers, Ms. Quatromoni shared that the biggest barriers are family issues. They are open and want to do the right thing. How can you place blame on a first grader, or give them a criminal charge? Chief Kennedy said that schools call file CRAs for failure to send a child to school. Ms. Quatromoni said that the schools do not want to do that, but Ms. Mossaides said that it is not optional.

Ms. Threadgill asked how Cape and Islands decides on who is not eligible for diversion. Ms. Quatromoni said that similar to Suffolk, they do not take serious bodily injury cases, firearms, or sex crimes, including sexting. Ms. Threadgill asked if youth are automatically eligible for diversion if the charges do not fall into one of these categories, and Ms. Quatromoni said yes.

Ms. Threadgill asked how many youth are arraigned versus given diversion in a given year. Ms. Quatromoni did not know offhand but said that data is available. Ms. Threadgill thanked her for her presentation and coming all the way from the Cape.

Ms. Threadgill said that the Northwestern DA's Office had to cancel for today, but we will hear from them at either the May or June meeting.

Ms. Fadel asked a general question about schools - how often are schools saying that they do not want a youth back? Mr. Cronin said that he has not seen that in his district, and the schools want to have the kids back. Chief Kennedy said that it is quite a process to remove a child from school, and Ms. O'Donnell said the school shouldn't have that information in the first place. Mr. Glennon said that there has been some pushback, but school are in a difficult position, as they don't know what else to do. Ms. Krippendorf said that the Norfolk office has done community roundtables with school officials and that there is an MOU. The focus is on how we can keep kids in school and keep others safe.

## **Questions and Discussion on Police and DA Diversion**

Ms. Threadgill turned the group's attention to a list of discussion questions about police and DA diversion. She said that the first question - what are the barriers to improving/expanding diversion - was the most important one for the group to discuss today.

Mr. Cronin said that his office's biggest challenges are resources and transportation. They do not want to set a child up to fail.

Ms. Mossaides asked about diversion options and how we should recommend financial distribution to different programs. Communities have different needs. Some urban areas may need more resources for gang-involved youth, while a rural community needs something else.

Ms. Krippendorf said that one of the biggest barriers is the criminal justice reform law. For the past 10 years or so, the system was working and they were able to intervene with youth early to address substance use, mental health, and other needs. No one wants to give kids a record, and we are aware that a child's behaviors are there for a reason. However, with the changes in the law, the diversion numbers have plummeted, and it is doing a disservice to youth.

Ms. Krippendorf said her county has towns that are affluent and not affluent, and what works in Dover may not work in Stoughton. The district attorneys are best poised to decide what should happen with the case. Norfolk has a list of conditions for their informal diversion. For formal diversion, youth are sent to Bay State. With funding, there would need to be different things in different communities, varying from court to court. Diversion programs cannot be the same across the board, and that DAs have to come up with their own good diversion programs. Ms. Krippendorf also said that the police do not have any tools for kids that are struggling.

Ms. Fadel asked if she had noticed an increase in other crimes since the law changed. Ms. Krippendorf said that anecdotally, she has heard that some police departments are totally hands off with youth or the youth are getting upcharged, which is the total opposite of the goal. Some are still getting diversion. Chief Kennedy offered an example of upcharging; instead of disturbing school assembly, which police cannot arrest for, they may charge with assault by means.

Ms. Fadel said that they had the same argument with CRAs regarding the numbers. Chief Kennedy said that they used to have 600 kids, and now they are down to 40. He said that parents need help with the kids.

Ms. O'Donnell referred back to the statement about not wanting kids to have a record, and emphasized that no one wants that. But in Lynn, a group of students between 10-13 years old demolished a school. Because of the new rules regarding age, only one was charged, which upset parents. The concern is that they will miss kids who need help.

Ms. O'Donnell also noted that court diversion gives judges such discretion, there is not a lot of consistency in terms of who gets diversion. Ms. Threadgill asked if she believed there could be a

similar inconsistency argument regarding DA diversion from county to county, and Ms. O'Donnell agreed there could be.

Chief Kennedy asked if every DA's office does diversion. Mr. Glennon said that he was speaking to the Berkshires about starting a program there, as they were previously the only county that did not have a diversion program. However, every DA's office runs their program differently. He noted that if funding went to the DAs for diversion, it would be a positive because the DAs understand the needs of the community. He felt the DAs offices bring certain benefits, like the ability to collect information and make decisions. DAs often have more information than the judges. Chief Kennedy suggested that judges can act as oversight.

Ms. Fadel said that she did not think most offices did risk screenings. Research from CSG has shown that if you divert a youth with formal requirements, it could put that child at higher risk for recidivism. This is an area that can be developed more.

Ms. Mossaides replied that this is why the group is here; to ask questions about data, policy implications, identify the best place to have kids identified. DCF is only for abuse and neglect cases. None of the places are connected; who would manage this? There are a lot of questions but not a lot of understanding or data. When we make our recommendations, we need to get the best data we can, taking into account geographic variations.

Ms. Krippendorf said that this is not exclusive to juvenile diversion. DAs are elected to make decisions. We need to be careful if we are going to say that diversion is different.

Ms. O'Donnell said that there is no follow-through with court diversion. Probation cannot monitor it, and it relies on kids' completion rates, which may be affected by different levels of support.

Chief Kennedy asked how many diversions are happening. Ms. O'Donnell said that they have court diversion and have had to get creative with options. They work with On Point in Salem, and Lynn is also getting creative. It is unknown how successful this is.

Chief Kennedy asked how many diversions there would be prior to the law change. Ms. O'Donnell said some courts give the DA the first option.

Ms. Threadgill said that over time, we will learn what is effective. She also asked how we can ensure that we use best practices, so that a child's zip code does not drive outcomes. Ms. Mossaides said that this is the "accident of geography" issue, and one that DCF has struggled with since its founding.

Dr. Connolly said that from DMH's experience, smaller, local program are more effective. In the court clinics, everyone has different ways, but they find that engaged, smaller teams are more effective than any state mandate. She acknowledged that this does make it harder to get data, as sample sizes are often too small. Front-end data is easier to collect than outcomes. Ms. Mossaides noted that sometimes, data is not consistent on the front-end.



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Ms. Fadel said that when thinking about racial equity, the latest research shows that black kids are more likely to be committed than white kids for the same offense. Diversion is often only for white kids. It's not about the offense, so how do we ensure that our population is getting equal access to diversion across the board?

Ms. Krippendorf suggested using a tool. Ms. Fadel asked if the tool may be driving some of the differences.

Dr. Connolly said that we need to drill it down, and that we have not found the answer yet. Is it the tool? We are not sure. Clinicians are reflecting and working on it, and are aware that it is a problem in diversion and treatment. However, they haven't found the answers to fix it.

Mr. Glennon said that the reason for the tool is to decrease bias. Also, studies should focus on socioeconomic status, not race. What happens if youth have access to stability and support, compared to not having them? He also noted that on the back end, judiciary is not at the table. JDAI's data does not do a breakdown of offenses and do not control for factors that could impact decisions.

Ms. Threadgill said that the next meeting will be about judicial diversion.

**Adjournment: 4:00PM**