

final minutes

Criminal Justice Policy Commission Meeting

9:00 a.m. • Wednesday, March 7, 2018

Harry T. Gast Appropriations Room • 3rd Floor State Capitol Building
100 N. Capitol Avenue • Lansing, MI

Members Present:

Senator Bruce Caswell, Chair
Senator Patrick Colbeck
D.J. Hilson
Kyle Kaminski
Sheryl Kubiak
Barbara Levine
Sarah Lightner (via teleconference)
Laura Moody
Sheriff Lawrence Stelma
Judge Paul Stutesman (via teleconference)
Andrew Verheek

Members Excused:

Representative Vanessa Guerra
Representative Jim Runestad
Jennifer Strange
Judge Raymond Voet

I. Call to Order and Roll Call

The Chair called the meeting to order at 9:02 a.m. and asked the clerk to take the roll. A quorum was present, and absent members were excused.

II. Approval of February 7, 2018 CJPC Meeting Minutes

The Chair asked members if there were any corrections to the proposed February 7, 2018 CJPC meeting minutes. There were none. **Commissioner Kaminski moved, supported by Commissioner Verheek, to approve the minutes of the February 7, 2018 meeting as proposed. There was no further discussion. The minutes were approved by unanimous consent.**

III. Progress Update from Hornby Zeller Associates, Inc. on Study of County Costs to Redirect 17-Year-Olds to Juvenile Justice System

a. Final Report

Karen Hallenbeck from Hornby Zeller Associates, Inc. presented the final report dated March 2018 that includes revisions based upon the changes discussed at the February Criminal Justice Policy Commission meeting. She highlighted the major changes and noted that when comparing the per case cost calculated by others and what is found in their report, there is no more than a 5% difference. A period of question and answer followed. Commissioner Levine had questions about the reference in the executive summary to "youth petitioned to court" and what some of the underlying assumptions are in the counts used in the report. Senator Colbeck wondered why the report projects a cost increase for Michigan when other states showed a cost-savings. The Chair noted that the issue of secure and non-secure facilities and how judicial discretion in the type of placement ordered can impact the ability to project costs. Commissioner Kubiak inquired if the distinction between felony and misdemeanor offenses are included in the report. She also emphasized the need to include something in the report about the lack of data on 15- and 16-year-olds diverted from juvenile court and that the report is flawed by the fact that we do not have this calculation and cannot estimate the number of 17-year-olds that might be diverted. A discussion of the lack of diversion data and the idea of including a statement regarding the lack of this data in the report followed. Commissioner Kubiak will work with Ms. Hallenbeck on language to address her concern. The discussion continued and Senator Colbeck suggested the sensitive variables and limitations of the data collection for the study be highlighted in the report. Judge Stutesman inquired about the meaning of "deferred pre-petition". Commissioner Levine commented on the assumption of so many non-assaultive cases going into residential placement. Commissioner Stelma added, in response to Commissioner Levine's question, that data on the number of non-assaultive 17-year-olds that had gone through the juvenile system at 14-, 15-, or 16-year-olds might explain why so many are going into residential placement, but he understands it is too late to obtain that data. In response to a question from the Chair, Commissioner Hilson explained that the term "pre-petition diversion" could be corrected, if the numbers in the report are based on court data, as diversion is not made by the courts at that stage. The Chair then thanked Ms. Hallenbeck and Hornby Zeller for their hard work and willingness throughout the project to work with others. He also thanked SCAO, the Michigan Council on Crime and Delinquency (MCCD), the Michigan Juvenile

Justice Partnership, Judge Allen, Sandy Metcalf, and other stakeholders who have participated in process. The Chair recognized the hard work of Commissioners Kubiak, Hilson, Levine, Kaminski, and Verheek and thanked them for their expertise during the study. Commissioner Stelma objected to the picture on the front page of the report and asked that it be removed. **Commissioner Stelma moved, supported by Commissioner Moody, to approve the removal of the photo from the cover page of the final report. There was no further discussion. The motion prevailed by unanimous consent.**

Yeas—9	Senator Caswell Commissioner Hilson Commissioner Kubiak Commissioner Levine Commissioner Lightner	Commissioner Moody Commissioner Stelma Commissioner Stutesman Commissioner Verheek
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Nays—0

Commissioner Kubiak moved, supported by Commissioner Levine, that the report be amended to include a stronger section on limitations including the absence of the data on 15- and 16-year-olds diversions that would affect the calculations. There was no further discussion. The motion prevailed by unanimous consent.

Yeas—10	Senator Caswell Commissioner Hilson Commissioner Kaminski Commissioner Kubiak Commissioner Levine	Commissioner Lightner Commissioner Moody Commissioner Stelma Judge Stutesman Commissioner Verheek
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Nays—0

The Chair explained that language prepared by Commissioner Kubiak and HZA will be distributed to Commission members in one week and the final report will include this language subject to no objection from any of the Commissioners.

b. Cover Letter

Commissioner Levine asked if it would be possible to discuss the cover letter to the report before a vote for acceptance of the amended final report is taken. The Chair agreed and there was no objection from any of the Commission members present.

The Chair then read and explained the proposed recommendations to be included in a cover letter from the Commission.

1. Estimates in the report before you are based on placing 17-year-olds into the status quo juvenile justice system. The legislature will have a variety of policy decisions to make, if choosing to implement raise the age policies, that may increase or decrease the costs presented in this report.
2. We recommend that the Michigan Department of Health and Human Services work with counties and courts to ensure that consistently measured county level data can be integrated at the state level to determine aggregated counts and individual outcomes.
3. It is recommended that an assessment of need across county level courts be determined. Furthermore, it is recommended that assessment of county and court costs attributable to changes in juvenile court processing for 17-year-olds be separated from the existing needs of court and county. Recognizing juvenile justice systems and their needs differ greatly across counties, we recommend implementing a flexible funding system so that each county can access what they need to accommodate their system.

Commissioner Moody expressed concern that this recommendation as written tells the Legislature what to do and suggested asked that the recommendation be written to be more objective. After discussion, the recommendation was changed to read as follows:

It is recommended that an assessment of need across county and municipal level courts be determined. Furthermore, it is recommended that assessment of county and court costs attributable to changes in juvenile court processing of 17-year-olds be separated from the existing needs of courts/county.

Recognizing juvenile justice systems and their needs differ greatly across counties, we urge the Legislature to consider, in making its policy decisions, implementing a flexible funding system so that each county can access what they need to accommodate their system.

4. We recommend that counties consider that one cost efficiency may be to process traffic offenses under the jurisdiction of district court rather than transferring them to juvenile court.

Commissioner Levine suggested that the Legislature consider cost efficiencies. Commissioner Moody was not comfortable with that change. Commissioner Verheek suggested that the reference to the counties or the Legislature be removed. The recommendation was changed to read as follows:

We recognize that one cost efficiency may be to process traffic offenses under the jurisdiction of district court rather than transferring them to juvenile court.

The Chair raised the issue of kids referred to as "State ward and board" and the current financing system. He wanted the Commission to be aware of this issue and the option of making 17-year-olds the responsibility of the State.

Commissioner Levine proposed the following for an opening statement for the cover letter:

"The bottom line anticipated increase ranges from a low of \$27 million to a high of \$61 million. It should be understood that these estimates are based on various assumptions about which 17-year-olds would still be treated as adults and what services would be provided to those 17-year-olds who are kept within the jurisdiction of the juvenile courts. These assumptions are greatly impacted by a lack of available data, the variations in decision-making by juvenile judges, and the methodology of the report authors. The Legislature should be aware that in other states that have recently raised the age, the costs ultimately proved to be substantially lower than estimated."

A discussion of the structure of the cover letter followed. Commissioner Kubiak shared it is standard practice in any kind of analytical paper to include the assumptions you make and the limitations of your data. She suggested including another recommendation as follows:

"Estimates in this report are based upon the best available data and assumptions around that data. The Criminal Justice Policy Commission recognizes the limitations of these estimates and recommends the legislators be equally aware."

A discussion followed. The Chair noted that clarity will be included in the executive summary and this recommendation may not be necessary. No motion was made to add the statement proposed by Commissioner Levine nor the recommendation proposed by Commissioner Kubiak.

Commissioner Verheek moved, supported by Commissioner Kaminski, to accept the four recommendations as amended for the cover letter and to include a reference to the language found in boilerplate that mandated the Commission to conduct the study.

- 1. Estimates in the report before you are based on placing 17-year-olds into the status quo juvenile justice system. The legislature will have a variety of policy decisions to make, if choosing to implement raise the age policies, that may increase or decrease the costs presented in this report.**
- 2. We recommend that the Michigan Department of Health and Human Services work with counties and courts to ensure that consistently measured county level data can be integrated at the state level to determine aggregated counts and individual outcomes.**
- 3. It is recommended that an assessment of need across county and municipal level courts be determined. Furthermore, it is recommended that assessment of county and court costs attributable to changes in juvenile court processing of 17-year-olds be separated from the existing needs of courts/county. Recognizing juvenile justice systems and their needs differ greatly across counties, we urge the Legislature to consider, in making its policy decisions, implementing a flexible funding system so that each county can access what they need to accommodate their system.**

4. We recognize that one cost efficiency may be to process traffic offenses under the jurisdiction of district court rather than transferring them to juvenile court.

There was no further discussion. The motion prevailed by unanimous consent.

Yeas—10	Senator Caswell	Commissioner Lightner
	Commissioner Hilson	Commissioner Moody
	Commissioner Kaminski	Commissioner Stelma
	Commissioner Kubiak	Judge Stutesman
	Commissioner Levine	Commissioner Verheek

Nays—0

Commissioner Stelma moved, supported by Commissioner Hilson, to accept the final report as amended and subject to no objection raised to the language Commissioner Kubiak and Ms. Hallenbeck will include to address the diversion issue. There was no further discussion. The motion prevailed by a vote of the majority of the members of the Commission present and serving.

Yeas—9	Senator Caswell	Commissioner Moody
	Commissioner Hilson	Commissioner Stelma
	Commissioner Kaminski	Judge Stutesman
	Commissioner Levine	Commissioner Verheek
	Commissioner Lightner	

Nays—0

Abstained—1 Commissioner Kubiak

There were no objections to the language prepared by Commissioner Kubiak and Hornby Zeller Associates, Inc. The final report can be found on the Commission's webpage at:

<http://council.legislature.mi.gov/Content/Files/cjpc/MIRaisetheAgeFinalReport03.14.2018.pdf>

IV. Mental Health Subcommittee Update

The Chair called on Commissioner Lightner. **Commissioner Lightner moved, supported by Commissioner Levine, to accept the following recommendation proposed by the Mental Health Subcommittee:**

"The Commission recognizes the need for *initial standardized* mental health screenings to be administered in a consistent manner within jail systems, to both ensure that those within the jail population with mental health needs are identified as well as to improve comparable data collection. As cost is of concern, the Commission recommends that jails implement a free evidenced based screening tool such as the Kessler Psychological Distress Scale (K6) or the Brief Jail Mental Health Screen. Additionally, the Commission recommends that jail staff administer these screens within a private setting and without the presence of other inmates *or by self-report* in order to safeguard confidentiality and elicit accurate screening results."

A discussion of the proposed recommendation followed. Commissioner Hilson noted that, in his county, local community mental health organization staff conduct the mental health assessments. Commissioner Lightner responded that not all counties have that opportunity with mental health authorities. Commissioner Verheek offered that an alternative may be to remove any reference to staff. Commissioner Kubiak commented that the intent is that the screening is done immediately upon jail entry and offered language to add that the mental health screening be administered at booking. Commissioner Stelma noted that, because the timing of mental health screenings may differ for various reasons, adding the term "at booking" may be problematic for some jails. Language to address these issues was discussed.

Commissioner Lightner moved, supported by Commissioner Levine, to adopt the recommendation with the proposed changes to read as follows:

"The Commission recognizes the need for prompt initial standardized mental health screenings to be administered, preferably at booking, in a consistent manner within jail systems, to both ensure that those within the jail population with mental health needs are identified as well as to improve comparable data collection. As cost is of concern, the

Commission recommends that jails implement a free evidenced-based screening tool such as the Kessler Psychological Distress Scale (K6) or the Brief Jail Mental Health Screen. Additionally, the Commission recommends that these screens be administered within a private setting and without the presence of other inmates or by self-report in order to safeguard confidentiality and elicit accurate screening results."

There was no further discussion. The motion prevailed by unanimous consent.

Yeas—10	Senator Caswell Commissioner Hilson Commissioner Kaminski Commissioner Kubiak Commissioner Levine	Commissioner Lightner Commissioner Moody Commissioner Stelma Judge Stutesman Commissioner Verheek
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Nays—0

V. Data Subcommittee Update

No further update was reported.

VI. Commissioner Comments

Commissioner Verheek brought up the issue of the per diem rate for probation residential services which is set by the Legislature and has not been changed in some time. He hopes the Commission will have a discussion of this issue and consider making a recommendation for the Legislature to either revisit or raise the per diem rate. There were no other comments from the Commissioners.

VII. Public Comments

The Chair asked if there were any public comments. Mary King, Executive Director of the Michigan Council for Crime and Delinquency, expressed her appreciation of the collaborative and transparent process involved in generating the 17-year-olds cost study and commented that she hopes that the Commission's report will be used and the factors that contribute to the range in costs are considered. There were no other public comments.

VIII. Next CJPC Meeting Date

The next CJPC meeting is scheduled for **Wednesday, April 4, 2018, at 9:00 a.m. in the Harry T. Gast Appropriations Room, 3rd Floor of the State Capitol Building.** The Chair noted that the July CJPC meeting will be held on July 11.

IX. Adjournment

There was no further business. The Chair adjourned the meeting at 11:25 a.m.

(Minutes approved at the April 4, 2018 Criminal Justice Policy Commission meeting.)