

JJPSIA Oversight Council Meeting

January 29, 2020

12pm CT

Action Items

- County specific commitment numbers related to auto theft.

Call the Meeting to Order

Chairman Greg Sattizahn called the meeting to order at 12pm.

Present

- Judge Scott Myren
- Justice Janine Kern
- Justice Steven Jensen
- Lindsey Riter-Rapp
- Kelly Marnette
- Bryan Harberts
- Senator Wayne Steinhauer
- Representative Kevin Jensen
- Senator Craig Kennedy
- Secretary David Flute
- Dr. Kelly Glodt
- Tom Hart
- Kristi Bunkers
- Charles Frieburg
- Greg Sattizahn

Absent

- Representative Kelly Sullivan
- Angela Shute
- Commissioner Neil Von Eschen
- Tiffany Wolfgang

Guests

- Officer Tim Doyle

Discussion

Mr. Sattizahn opened the discussion by describing the exchanges that transpired with Officer Tim Doyle about adding aggravated eluding to the DOC commitment criteria. Officer Doyle reviewed information from his community. 8 of the 58 aggravated eluding cases had a juvenile driver. 5 chases ended in a crash, 1 had the tires spiked, and the remaining were terminated by an officer. The majority of the youth were 13 or 14 years old; however, the officer generally does not know the age of the youth until the chase has ended. In almost every case, the situation involved a stolen vehicle.

Secretary Flute inquired if Officer Doyle knew how many of the instances included a Native American child and if there were any other new trends. Officer Doyle recalled that about 80 percent of the youth were Native Americans. As for trends, there was an increase in assault cases, especially for middle school girls. He also added that 70 percent of the cases were female

Ms. Riter-Rapp inquired if prosecutors were advocating for the youth to go to DOC but the courts decided not to give that disposition. Justice Jensen followed-up Ms. Riter-Rapp's question if the officer had followed the adjudication to disposition and if he knew the disposition. Officer Doyle did not have that information. Ms. Bunkers indicated that she was familiar with some of the scenarios that he described at the beginning of the meeting. Several of those youth had been committed to DOC and

spent time in a facility. The eluding crime was committed while on aftercare. She added that she felt that many of these youth were being captured under the current framework. Youth in their early teenage years pose difficult challenges, and the recidivism numbers tend to be higher.

Justice Kern asked if Officer Doyle was aware of any cases where the judge did not have the current authority to remand to DOC due to the current statute. Do West River judges feel that they need the additional authority to send to DOC, or that the amendment is necessary because it will send a message to the youth that aggravated eluding is a dangerous offense. Officer Doyle responded that while he could not speak for the judges, it was his opinion that there were times where a judge has felt that their hands were tied.

Representative Jensen has heard that there is a problem with stolen cars on the east end of the state, and that youth feel empowered by stealing cars—which can lead to eluding. Representative Jensen said that he felt inclined to add auto theft. He noted that this is not a new problem, but perhaps the council should consider auto theft in general. Ms. Bunkers responded that the public safety exception could capture some of those instances. 61 percent of DOC kids enter DOC on written findings because the current framework allows a judge to override the criteria if there is a potential harm to others. She also added that the Attorney General's data shows that has been a decrease in motor vehicle theft each year. Representative Jensen inquired if her data was available by county, and if she knew if the overall trend was decreasing in some areas, but fluctuating in others. Ms. Bunkers replied that she could break down the data by county, and would look at the stolen vehicle offenses (**Action Item 1**).

Ms. Marnette noted that, when speaking with prosecutors, that there was some confusion as to why grand theft auto was not included in the criteria, and that there should possible be a discussion about this. Justice Kern asked Mr. Sattizahn if he had any data about how this would impact the state. Mr. Sattizahn replied that last year there were 12 cases that would have fallen under that criteria. He also added that the group was focused on intentional damage to property because it was in response to the common offenses the group heard from the community, such as breaking into businesses, theft, and destruction of property.

Senator Steinhauer was concerned about including grand theft auto because it might include youth who took a vehicle for a joyride, but returned in unharmed. He felt that was a vastly different offense than eluding. For eluding, the youth had to first decide to take the car then make the decision to run from the police. Ms. Marnette replied that prosecutors are careful to make a distinction between the joyride cases, and consider if the vehicle was returned and the state of the vehicle. If the event is classified as a theft, then there is no intent to return it.

Secretary Doyle inquired if all the eluding cases included a stolen vehicle. Officer Doyle replied that it was a combination of stolen vehicles and pursuit. Of the cases he reviewed, all but 1 were stolen.

Mr. Sattizahn added that eluding takes it to a heightened level—the public safety exception. The eluding sweeps in those stolen vehicles. He added that it might be something the Council should review in the future to see how it is charged. He felt that judges were using the public safety exception. If the council inserts eluding, then it is a policy statement that says that the state believes this is dangerous behavior. The use of the stolen vehicle will only magnify the seriousness in the judge's mind.

Senator Kennedy replied that he thought that the current system handles this well. The public safety exception is being used in appropriate circumstances. He was wary of continually adding exceptions and

statutes into the law. The bill will just start down a path where every year a group comes in with an example of what is particularly bad, and soon exceptions will swallow the rule. The system has been working the way it is. Senator Kennedy indicated that he would have a difficult time supporting eluding. In the adult system, the person would be probably be a recipient of presumptive probation for the same offense. Justice Jensen added that judges are already of the mind that eluding is a serious offense and needs to be addressed. He added that the projected numbers were quite small, and judges are already aware of the ability to use the public safety exception. Adding aggravated eluding does not add much to the current statute, but instead creates additional requirements for the prosecutor to meet in order to get the commitment. It may be easier for a prosecutor to utilize the public safety exception and seek commitment via findings.

Motions

Mr. Sattizahn asked if anyone would like to make a motion to proceed with adding aggravated eluding to the bill. Absent a motion, Mr. Sattizahn concluded the meeting at 12:40pm.

Next Steps

Representative Jensen and Senator Steinhauer will sponsor the legislation the Oversight Council approved at the previous meeting.