



Detention Risk Assessment Instrument (DRAI) Meeting Minutes

Monday, December 11, 2017

Committee Members Present:

- Judge Angelica Zayas – Circuit 11
- Judge David Gooding – Circuit 4
- Chief Greg Graham – Circuit 5
- Chief Lawrence Leon – Circuit 15
- State Attorney Ed Brodsky – Circuit 12
- Assistant State Attorney Rebecca Shinholser – Circuit 8
- Public Defender Carlos Martinez – Circuit 11
- Assistant Public Defender Jeannie Moore – Circuit 14
- Sheriff Robert Gualtieri – Circuit 6
- Sheriff Arnold Lanier – Circuit 10

Department of Juvenile Justice Staff and Facilitation Team

- Dr. Kelly Dedel, One in 37 Research, Inc.
- Dr. Kristen Early, Juvenile Research Center
- Michael Umpierre, Georgetown University
- Lisa Macaluso, Center for Children’s Law and Policy
- Christina Daly, Secretary FDJJ
- Timothy Niermann, Deputy Secretary FDJJ
- Mark Greenwald, Director of Research and Planning
- Minnora Bishop, Statewide DRAI/JDAI Coordinator

Meeting Review

- Meeting began at 9:00 am
- Introductions:
 - Secretary Daly requested that each committee member, speaker and audience introduce themselves and provide their respective job title
- Sunshine Law & Public Records
 - FDJJ Legal Counsel provided an overview of Florida Sunshine Law and Public Records Laws highlighting that committee members are not allowed to discuss decisions to be made about the instrument with each other
- Welcome
 - This is the next in the Department’s efforts toward system reform
 - The state is currently at a 42 year low in arrests
 - Overview of other projects of geared toward creating best outcomes for youth while increasing public safety
 - Current instrument is more than 20 years old
 - Florida has one of the first detention screening tools ever created. This is our opportunity to lead the country once again with the implementation of a state of the art instrument and full pre-adjudicatory supervision continuum
 - Having this process be led by experts is important because we are only one piece of the justice system
 - Current isn’t working. We need something better
 - This process will require us to look at legislative changes, training, IT, and better community supervision
 - Thank you for being a part of this team
- Moderator Overview of the Meeting Goal
 - Mike Umpierre gave an overview of his background
 - Discussion to enhance public safety and produce better outcomes through adoption of new DRAI
 - More than 20 years ago Florida launched the idea of DRAIs which has been a huge contribution to the field.

- This instrument drives the process for achieving more objective and intentional decisions around who should be placed in detention.
- Over the last 25 years, the body of knowledge and research has grown exponentially.
- Dr. Early began an evaluation in 2014. We built upon that information to create the instrument that will be presented today.
- We hope to vote to proceed with proposed instrument with the caveat of your guidance along the implementation phase.
- We are looking to you for your insight to help inform this process.
- Public Comments will be allowed tomorrow. Today we will focus on committee member review of the tool
- Committee Members Introductory Remarks
 - 2 Questions Asked:
 - (1) Most promising about this effort
 - (2) Important considerations, questions, or issues to be addressed
 - Judge Zayas
 - Promising
 - Timing is right
 - Instrument is outdated
 - It is important to note the changes in the world of our kids
 - Considerations
 - Definitional issues within statutes – pending disposition, history of law violation prior to court hearing
 - How do we deal with incompetent to proceed cases?
 - How do we deal with chronic misdemeanor arrests?
 - How do we deal with historic cases?
 - Judge Gooding
 - Promising
 - Evidence-based
 - Considerations
 - Education of stakeholders
 - Want to understand subtraction of points and age allocations
 - Statute emphasizes rehabilitation
 - Chief Graham
 - Promising
 - Excited about process
 - Opportunity to clear up frustrations between law enforcement opinion and actual practice
 - Considerations
 - Statute that says JPOs shall attempt to contact law enforcement – law enforcement should be a part of the recommendation process
 - Chief Leon
 - Promising
 - Updating new instrument to guide the child in the right category
 - Opportunity to be a leader again
 - Considerations
 - Wants to understand the age allocation
 - Should we be looking at previous prevention program opportunities
 - SA Ed Brodsky
 - Promising
 - Progress is being made
 - Shift in thinking across the system
 - The more the instrument can guide decisions, the better
 - Considerations
 - Conflict between LE opinion and current process
 - Must identify proper placement

- ASA Rebecca Shinholser
 - Promising
 - Definitely time for a new instrument
 - Focus on public safety
 - Encouraged by middle ground development
 - Considerations
 - Violation of HD and EM
 - Current abscond points
 - FTA statutes
 - Burglary of Dwelling
- APD Jeannie Moore
 - Promising
 - It is time to revise tool
 - Definitions can be given
 - Glad to see mitigating/aggravating removed
 - Considerations
 - Failure to Appear
 - What is a “law violation prior to court hearing”?
- PD Carlos Martinez
 - Promising
 - Opportunity for education on the practice
 - Should we eliminate the process all together?
 - Considerations
 - Detention population is only 30-40 people kids now in circuit 11
 - Will current process increase the number of kids in detention?
 - Feels the less we do with the kids the better they do
 - Understands Central Florida has an issue, but that is not a representation of the entire state
 - How will the instrument effect different parts of the state?
- Sheriff Gualtieri
 - Promising
 - We need an instrument that reflects current times and looks to the future
 - Need a tool that will help reduce recidivism
 - Considerations
 - Disagrees that detaining more kids is worse
 - Instrument needs to address that small subset of the DRAI that does not adequately assesses right now
 - This instrument will not solve the problem, but is just one piece of the process
 - DJJ will have to change the way it enforces the monitoring of middle category.
- Sheriff Lanier
 - Promising
 - Hoping better tracking will be implemented
 - The key is early intervention
 - Considerations
 - Case processing is a big issue
- Umpierre’s Summary
 - Group is collectively open
 - Time is right for a new instrument
- PowerPoint Overview (Dr. Kelly Dedel/Dr. Kristin Early)
 - By adopting this new instrument, Florida will be upgrading from a huge brick phone to an I-phone 10
 - Old instrument:
 - Is confusing
 - Kids were placed in the wrong category
 - Aggravating/mitigating factors rarely used

- 2014 study identified what worked well and what was just a distraction
- Will talk about data; Be mindful the instrument only focuses on the screening decision. The judicial decision is a different point.
- Committee members will need to assist with the training aspect of the new instrument moving forward to ensure we are all on the same page
- Going forward, we will be monitoring the level of agreement between the instrument, screener, and court decision
- Best Practices
 - Take subjectivity out of the process
 - Items must be fact based & data-driven
 - Factors should have known statistical relationship to what we are looking for
 - Use of a universal screening instrument
 - Everyone gets fully scored
 - Continual review of instrument use and validity
 - Tool should be automated
 - Control overrides – don't bypass the tool. When grounded in data, they work!
 - Messaging to staff must be clear to ensure fidelity
 - Staff must understand supervised release options and what would make a youth eligible for each one
 - Monitoring/use of overrides is important
 - Monitoring of how strategies of detention reform work with the tool
 - Understand that the tool is just one piece of a bigger picture
 - Jurisdictions with good data resources have a better opportunity to make this process a great one
- Focus should be to strengthen the middle category in an effective manner
- Over 200,000 cases screened between 2014 and 2016 were reviewed and trends identified
- Analysis focused on the time to disposition NOT recidivism rates. The question is “Is the youth likely to commit a new charge or fail to appear during the time period
- Time taken to generate full score for those youth the current instrument does not completely score.
- Less than 3% of cases use aggravating/mitigating factors
- Definition inhibited the validity of the instrument
- Defining referrals – Each arrest reports is considered a referral. We are not looking at separate counts. Civil Citations are not considered. Referrals that have been dismissed, non-filed, or nolle prosequi do not count
- Discussion ensued about how kids get to screening.
- Instrument should only be use information that is readily available to the screen at any given time
- Mental Health and School Factors? This information is not always readily available at the time of screening in every circuit
- Middle Category
 - Kids in the middle category do well if supervised properly
 - How will this category look in Florida?
 - Review of Florida statutes include a definition of the term non-secure and options allowed.
 - 985.03 Definitions.—As used in this chapter, the term:
 - (18) “Detention care” means the temporary care of a child in secure or nonsecure detention, pending a court adjudication or disposition or execution of a court order. There are two types of detention care, as follows:
 - (b) “Nonsecure detention” means temporary, nonsecure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department staff pending adjudication, disposition, or placement. Forms of nonsecure detention include, but are not limited to, home detention, electronic monitoring, day reporting centers, evening reporting centers, and nonsecure shelters. Nonsecure detention may include other requirements imposed by the court.
 - Review of current options available statewide was provided
 - Information regarding two additional options available in the JDAI sites provided
 - Programs may be used together if needed

- Process will enable a stronger practice and will be tracked (success, FTAs, and new charges)
- Will need to consider case processing issues and 21-day rule as both have an effect on this process
- Secretary Daly – The task ahead is to strengthen the middle category including the availability of programs and the effectiveness of how they work. We want to work with the stakeholders to design what this will look like. Active EM is better than passive EM.
- Are we factoring in the youth’s risk? Yes, but not in the same way the PACT refers to risk. The PACT is designed for a different decision point.
- Overview of Failure Rates – Current DRAI
 - Rates are given on a 60-day range
 - 20 % failure for youth released
 - 27% failure for youth placed on home detention
 - 80% of all these failures were for new charges
- Review of study sample provided
- Explanation of information gathered and how study was conducted
- Research Steps
 - Identify what factors to test
 - Get rid of things that dilute ability to see what is really going on
 - Figure out where kids fall in each factor – look at failure rates of each group to determine point associations
 - Calculate total scores for each kid
 - Determine cut scores for each group. Cut scores were NOT designed based on current DRAI. They were designed based on the analysis
- Reviewing the Proposed Tool
 - Most Serious Current Offense (MSCO)
 - Things that you think are predictive are not necessarily predictive like the MSCO
 - This section is the opposite of predictive – more serious offenses are less likely to fail and vice versa
 - This section is designed to balance political concerns with the minimization of the impact to the instrument’s ability to truly predict failure rates
 - Prior Referrals
 - This section has been modified from a focus on adjudication and withholds to a focus on referrals
 - The timeframe restriction has also been removed
 - Points better align with the risk youth present
 - Points are only meaningful in relationship to the other factors and then in relation to the other categories
 - Delinquency History
 - Current abscond presented at screening will be counted in this section because the youth would have to have been declared an absconder before the screening
 - Definition of “law violation prior to court hearing”. Youth commits an offense between the referral and disposition dates of a previous offense. Offenses that have dismissed, non-filed, or nolle prosequi cannot be considered.
 - Pending violation will be considered
 - Current Legal Status
 - Overview provided
 - Current Age
 - Explanation of how data led to point allocations
 - Committee Questions

- How do we account for historical offenses? We can only assess the youth based on the information available now. Attempting to account for what might have been is not an objective process
- Interstate Compact Cases – We will use any available information from the sending state as a part of this process.
- Explanation provided of what variations in outcome look like between the current and proposed instrument on the aggregate level
- Gender variances provided
- Race variances provided
- Failure rate comparisons of current vs. proposed instrument without enhanced supervised release options
- Ethnicity variance overview
- Committee Questions:
 - How do we know it will work? The instrument was designed using Florida data which included a close look at how real kids have been performing. The goal is to create categories that ensure the right kids are placed appropriately
 - Request for VOL to align with FDLE list
- Review of scenarios with breakdown of how outcomes compare to the current instrument
- Conversation about misdemeanor referral outcomes. Old instrument releases 64% of misdemeanor youth. New instrument takes better account of youth's history.
- Review of statutory overrides resulted in a decision that F.S. 985.25 (1)(b) – 3 in 60 rule and F.S.985.439 – violations should be removed from the statutes
- Review of Day 1 provided

December 12, 2017

Meeting Review

- Meeting began at 8:34a
- Opening Remarks – Michael Umpierre
 - Notice to audience that public comment sign-up is available
 - Public comments time slot may be move to an earlier time that slated on the agenda if committee discussion allows
 - Review of Governance Rules and Voting Procedures
- Day 1 Recap
 - Thanks to committee for keeping an open-mind
 - Purpose of meeting to decide whether to move forward
 - Committee members determined yesterday that this was the right time to update the instrument
 - The question is whether this instrument is the one to adopt
 - That decision is difficult because change is hard and because it requires a partnership between the parties to move forward
 - We need to come to consensus around
 - Special cases
 - Violent offense list
 - Strengthening the supervised release options
 - Additional option to add to the continuum
 - Legislative changes
 - 21-day rule
 - Training statewide
 - Data analysis & evaluation
 - Review of Big Picture
 - Dr. Dedel & Dr. Early provided an overview of the proposed instrument and offered at least 3 strengths
 - Compared to the current instrument, the proposed leads to reduced failure rates (new charges or FTA) which equates to an increase in public safety. This holds true when you look at it in relation to gender, race, and ethnicity

- Allows for a full range of supervised release options – not just home detention
 - 25% of kids in less restrictive settings
 - 15% of kids in more restrictive settings
- Specifically tailored to the state of Florida. Florida benefits from one of the most comprehensive data system in the nation.
 - Dr. Dedel, Dr. Early, and Dr. Davies mined all the data to identify five categories that are most predictive while considering what is readily available at the time of screening
 - The instrument proposed used the gold standard of research methods
- It is simple
 - Current instrument has a bi-fricated system that includes complicated terms and outdated language.
 - Tool will be automated to make it even easier
- Question to Committee Members: (1) Do you agree with these advantages? (2) Do you see any other strengths?
 - Carlos Martinez – How does instrument improve FTA rates? Dr. Early provided an overview of proposed instrument rates for FTAs specifically and compared to current instrument
 - Sheriff Gualtieri – It is asking us to trust the dat. One size fits all does not work. You are asking us to trust the data because one of the best ways to find out what will happen is to look at what has happened. For it to work, the judges must be on board. The screeners will do as directed, but what do we do about the judges that deviate?
 - Judge Gooding – The great thing about judges is they are independent thinkers. The bad things about judges is they are independent thinkers. We have had data presentations in Circuit 4. The judges listened and it worked. I think you will find that judges want to do the right thing. If you show us the information in an objective manner, we will listen for the most part. I am in favor of accountability for the Bench, but the deviations that occur as a result of an agreement between the parties should be distinguished from the deviations that result from a judge or judge’s ruling after a contested hearing.
 - Several committee members discussed ways to track how often modifications are made to screening outcome placements
 - Ed Brodsky – Are there any other data points that should be asked that are not included? Dr. Early’s response: There are other items that might be useful in this process. The issue is that they are not readily available at the time of screening
 - Martinez – Members may have some concerns about the affect their comfort in voting today. Moderator responds: Let’s go through the PPT to see if it answers questions, then address additional concerns.
- Review of DJJ’s Commitments
 - Sub-committee will be formed to address the following topics:
 - Special Cases: Multiple Burglaries and Use of Underlying Charges
 - Violent Offense List: Reconciliation with FDLE’s list
 - Strengthen Supervised Release Continuum and Monitoring Outcomes
 - Legislative Changes: 3-60 Rule, 21-Day Rule, Violation = Auto HD Rule
 - Creation of public reports
 - Statewide Training
 - Reviewing outcomes on a quarterly basis
 - Reflection on Commitments
 - Discussion on how sub-committee would work
 - LE would want to be consulted on decisions to move kids up or down continuum in some areas

- This committee will reconvene after sub-committee decisions are made
 - Sheriff Gualtieri
 - Motion made to approve replacement of current DRAI with proposed DRAI subject to modifications that DJJ agrees to work with the sub-committee to implement and approve. Judge Gooding seconds that motion
 - Carlos Martinez
 - Motion made to change DRAI to move possession of a firearm out of mandatory SD placements and place on same level as violent third-degree felonies
 - Both parties reminded that public comments must be heard before motions can be made.
- Public Comments
 - Eric Trombley, 2nd Judicial Circuit
 - Old DRAI has problems, but the proposed one does too.
 - Proposed instrument is very bad
 - Should wait until sub-committee sends proposals to vote
 - The issues need to be addressed before voting because you won't have another opportunity to vote
 - Timeframes shouldn't matter. Take the time to do this right
 - Vote to move forward with exploration, but not to adopt instrument
 - Response: SA Brodsky stated the sub-committee can't take over the vote of the committee according to the Sunshine Law. They can only vet areas we have identified and bring the results back to the committee
 - Lynn Powell, 15th Judicial Circuit
 - Gave description of operations before existing DRAI and benefits of having an instrument
 - Thinks we need to make some tweaks to the proposed instrument and understand the effects on the outcomes
 - Understands press for time because the new DRAI isn't working
 - Applauds Secretary for taking on this initiative
 - There were issues with VOL after last committee meeting. We need to make sure decisions here are institutionalized so that stand even when the administration changes
 - Palm Beach county is a JDAI site that has alternatives. The alternatives are good, but needs some additional support. We need to be sure the Department will be accountable for its promises.
 - Kids know how to get over on what exists so we need to be sure there is accountability and court involvement.
 - Response: Secretary Daly stated she respects both parties for their comments. It is very important to make decisions based on the data. No matter what we do, there will always be outliers. It is important that we come to a consensus around this work. We all want public safety. I caution the committee that straying from the data is dangerous. We can't ignore what the research tells us. We have an opportunity to analyze these changes, unlike any time that we have had before. We can look at this on a quarterly basis to make sure that outcomes we intend are the outcomes we are getting. We think that issues brought up will be outliers and should look at what changes should be made. Bringing this group together is recognition that what is happening needs to change. There are kids that are being detained that don't need to be and vice versa. We need to look at impacts of proposed requests. If it makes the tool better, great. If no, that will be problematic. Let's make sure we are using data.

- Martinez: I withdraw the motion regarding firearm offense with an understanding that it will be looked at by the sub-committee
 - Gualtieri: Submits motion again; Judge Gooding seconds again
 - Martinez: Asks for clarification – Will this committee come back to approve any changes. Response: yes
 - Judge Zayas: I agree the old one is not working. I agree to approve an instrument that looks something like this one
 - Gualtieri: We aren't sure what the changes will be or how big they might be right now, but we can agree to move in this direction. You are asking us to change the philosophy of the way we have been doing things. We should look at some tweaks, but not extensively because we will undo what has been done.
 - Judge Gooding: Evidence is overwhelmingly clear this is the direction to go in
 - Rebecca: How much of the proposed instrument are we willing to accept?
 - Gualtieri: We won't know that until the research is done.
 - Secretary Daly: It seems that after we vet this it will be resolved with some other issues we are going to work on.
 - Chief Leon: This is a living document. This old one is dead. Get a sub-committee. Let them make the proposal, then vote.
 - Chief Graham: Sherriff's motion gives the opportunity to weigh in on changes which is why I will be on board.
 - Sheriff Gualtieri: We must give them enough to move forward. If we say no, we can't do anything. We must be willing to compromise. Don't let the desire to be great get in the way of good. Everyone has to understand that we are not going to get everything we want. We have to go with what is best overall.
 - Martinez: Call for the Vote
 - Committee Vote: Committee members unanimously approve the motion.
 - Conversation regarding the formation of the sub-committee
 - Committee will include at least one member from each affinity group
 - Will must operate on a very tight schedule
 - Want to get legislation committee in time for 2018 session
 - Moderator provided ending remarks
- Meeting ends at 11:53a