

DATE: 11/7/14

MEMO TO: LAMOILLE COUNTY LAW ENFORCEMENT OFFICERS FROM:
LAMOILLE COUNTY STATE'S ATTORNEY JOEL PAGE REGARDING:
CHARGING 16-17 YEAR OLDS IN JUVENILE COURT



REVISED POLICY: (nearly the same as before.) OFFENSES BY 16-17 YEAR OLDS: For offenses committed by **juveniles who are 16-17 years old**, I want you to **cite them into juvenile court, EXCEPT** for major motor vehicle offenses (DUI, DLS, Negligent Operation, ATE, and LSA), "listed crimes" per 13 VSA 5301 (7), and fish and game offenses. This policy takes effect immediately. **This is the same policy as has been in effect for several years, except the 17.5 year old cap is extended to 18.** (The new law gives the court jurisdiction over a juvenile until age 18.5, so there is usually time to handle cases even if the juvenile will be 18 soon).

"Listed crimes" should be cited into adult court. These include all levels of stalking, domestic assault, sexual assault, L&L, murder, manslaughter, aggravated assault, assault and robbery per 13 VSA 608, arson, maiming, unlawful restraint, kidnapping, reckless endangerment, VAPO, burglary into occupied dwelling, various forms of abuse per 13 VSA 1376-1381, and attempts to commit any of the above for the more serious offenses arrest may be more appropriate than citation, but the general preference is citation..

PROCEDURE: (same as before.) GIVE CITATION AND THE ATTACHED "NOTICE TO REPORT FOR RISK ASSESSMENT" TO JUVENILE AND CUSTODIAL PARENT/GUARDIAN (see below for time frames). A "Notice to Report for Risk Assessment" should be given to the juvenile and custodial parent/guardian at the same time the citation is issued. A copy of the Revised Notice to Report for Risk Assessment is attached. (Note: with this revised form you do not need to fill anything out or fax a copy to Diversion). **Please issue the Notice to Report for Risk Assessment in all delinquency cases, including those involving juveniles under age 16.**

TIME FRAMES FOR CITATION AND CASE SUBMISSION: (same as before.) Time frames for citing and submitting cases should generally be as follows: **Cite for next available juvenile court date that is 30 or more days out.** A list of juvenile court dates will be provided periodically as the court gives them to us. Give "Notice to Report for Risk Assessment" to juvenile at same time as citation. Provide custodial parent/guardian with copy of citation and "Notice to Report" promptly.
Get paperwork to State's Attorney within 10 days of cite.

EXCEPTIONS: If you have a case which you think should be handled differently than above, contact me to discuss it.

REASONS FOR POLICY OF CHARGING MOST 16-17 YEAR OLDS IN JUVENILE COURT:

1. Most of these cases go to Diversion anyway.
2. Risk assessment will generally be done and risk issues addressed, with risk areas hopefully reduced. This means better outcomes.
3. Confidentiality of juvenile process reduces undesirable negative consequences to employment, higher education, and housing. There is no negative publicity or adult record created.
4. A "Google record" is avoided. Most of these individuals, if charged as adults, are statutorily entitled to have records sealed or expunged. However, for cases handled as adults, Internet sites now capture the arrest/charge/conviction and make that information permanently accessible to employers, schools and landlords. This "Google record" defeats the statutory right and legislative intent of sealing or expunging records. This in turn creates an additional barrier for a young (often struggling) person trying to get started in life. Handling the case as a juvenile matter from inception usually achieves better outcomes for this age group, and avoids the unfairness and negative effects of the "Google record".
5. Vermont is one of only a few states that allow 16 year olds to be initially charged in adult court. This new policy is in line with majority practice.
6. About half of the State's Attorney's Offices have adopted substantially similar policies and this approach appears to be generally effective.
7. This new policy is consistent with recent studies about brain development in adolescents.
8. This policy is consistent with current government efforts to reduce the Department of Corrections caseloads (though in reality few of these cases would have ended up in jail or on adult probation).
9. We have used this policy with 16-17.5 year olds for a couple years without significant problems.
10. The Legislature revised the law in 2012 to extend juvenile court jurisdiction until age 18.5 for non-violent misdemeanors, so that there is usually sufficient time for 17 year olds to complete treatment, community service, and other program requirements.
11. Policy is flexible; exceptions will be made in appropriate cases.

NOTICE TO REPORT FOR A RISK ASSESSMENT

You have been given a juvenile citation from a police officer to go to court about a delinquent act. You must be at the court on the day and at the time stated on the citation. If you do not go to court on the day and at the time stated, a judge can order that you be picked up and brought to the court, and you may get a penalty for not showing up on your own.

RISK ASSESSMENT: Please contact Court Diversion in Hyde Park, VT (802-888-5871) within 10 calendar days of this notice to sign up for a risk assessment, The assessment should be done before the day you must be at court.

Purpose: The purpose of the risk assessment is to figure out the best way to handle your case.

If you qualify, you could be sent to Court Diversion, instead of going through the court process.

Confidentiality: The assessment is a confidential interview with the Court Diversion Program. The things you talk about are strictly confidential, and will not at any time be shared with the police, the State's Attorney, or the Court, However, the level of risk determined by the assessment will be shared with the State's Attorney and Department of Children and Families. (If the decision is made that you Must go through the court process, Department of Children and Families will have access to your full risk assessment.)

How Much Will This Cost? There is no cost for the risk assessment, (However, if your case is referred to Court Diversion, there is a program fee).

How Long Will This Take? The assessment usually takes approximately 30 - 45 minutes.

Who to Contact:

Lamoille County Court Diversion
221 Main Street, P.O. Box 148
Hyde Park, VT 05655

Phone: 802-888-5871 / Fax: 802-888-5400
E-mail: info@lamoillecourtdiversion.org
Subject: Risk Assessment

Mondays Fridays, 8:30 — 4:30 PM

All individuals under the age of 18 MUST be accompanied by a parent or legal guardian to the risk assessment and to court,

(Revised 10/14/14)

This document contains the expected scope of work related to the Memorandum of Understanding between the Department for Children and Families, Family Services Division, (DCF FSD) in partnership with the Children and Family Council for Prevention Programs, and the State's Attorneys and Sheriffs Association (SAS), subject 'Consultation to State's Attorneys re: reduction of youth referred to Criminal Division', for the period 2/1/15 – 1/31/16.

Major activities anticipated:

The State's Attorneys Consultant will:

1. Consult with County State's Attorneys (SAs) re: protocols and practice for youth offenders who are 16 – 17 years old. This includes providing resources and consultation that will lead to practice and policy changes within the SA offices. Assist SA offices in defining and overcoming obstacles to filing youth cases in Family Court or pre-charge community justice alternatives.
 - a. Survey, assess, and report on community resources as an obstacle to referring youth cases to Family Division, and the degree to which the Act 159-required screening may create delay in youth court appearance.
 - b. Counties experiencing obstacles will be guided by effective practice and protocols that have worked in other jurisdictions. Community resource needs will be identified to program manager and Jurisdiction Workgroup (JWG).
 - c. Working with other SAs and statewide youth justice staff, develop a package of materials or grid of what works in handling cases of 16 – 17 year old youth.
2. Assist SA offices in developing protocols that will assure the YASI pre-screen option to all delinquency cases filed.
 - a. Encourage adoption of YASI screening opportunity for youth that law enforcement and St. Attorney will normally refer to Criminal Division.
 - b. Review YASI practice and encourage practice that uses the tool for informed decision-making by SAs
3. Consultant will work with SA offices that have a high rate of either community-based direct referral, or Family Court referral for older teens to document outcomes of those cases re: recidivism rates or prosecutor time involved in managing various court charging options. These findings will be shared with other SAs. Consultant will catalog practices about what is working, what is not working, and share these approaches with other state's attorneys.
4. Work with law enforcement agencies and SA offices in counties that have low rates of race data submitted with delinquency filings to develop policy or practice that will comply with the requirement to provide this information to the court.
5. Consultant will work with program manager and State's Attorneys and Sheriffs (SAS) IT to discuss SAS database and help to define SAS data points that may inform outcomes of different charging practices for 16 – 17 year olds.
6. Collaborate with other youth justice partners to provide training to SAs regarding best practices for managing youth cases.
 - a. Convene periodic meetings with those SAs responsible for 16 – 17 year old cases inclusive of both Criminal and Family Divisions.
 - b. Consultant will work with the Jurisdiction Workgroup of the CF CPP, and statewide staff involved with creating consistent approaches for 16 – 17 year olds such as the JJ Specialist, JJ Administrator, Court Diversion Director, and Court Improvement Project Staff.
7. Position will provide regular distribution and presentation of state and national reports to the SAs responsible for target population (16 – 17 year olds) on effective adolescent justice responses, recidivism, and other related materials for educational purposes. These materials will most often be provided to consultant by the program manager, or other staff who work on statewide system responses to youth.

The SAS Office will:

1. Provide office space, equipment, and supplies to consultant as needed. Consultant will generally work off-site in home office and / or in the field.
2. Provide supervision to the contractor
3. Provide access to SAS computer systems and database
4. The SAS will provide these services free of compensation

Outcomes desired:

The consultant funded under this MOU will provide resources and consultation to State's Attorney's offices in an effort to meet the following goals. It is understood that this MOU cannot restrict the exercise of discretion by a State's Attorney and that some State's Attorneys may not meet some or all of these goals.

1. Reduce number and rate of youth cases processed in Criminal Division consistent with appropriate charging decisions.
2. Increase the number of counties that develop policy to commence all appropriate (as allowed by state statute) youth charges in Family Court, and or community justice / Diversion alternatives.
3. All State's Attorneys offices will adhere to Family Court Rule requiring filing Form 101 with juvenile petitions.
4. Increase number of counties that will adhere to statute requiring screening opportunity for youth accused of delinquent offense (Act 159)
5. Some counties will refer *all* youth, whether destined for Family or Criminal Division, to the YASI pre-screening option, and utilize the screening result to inform the determination of where a case is filed and what the recommended level of intervention will be based on risk level.
6. Identify specific training needs and barriers to referring youth to Family Court for delinquency-type offenses – especially in counties that have not adopted policy to file 16 – 17 in Family Court. Report these issues to the JWG.
7. Jurisdiction Workgroup, program manager, and State Departments or Agencies will be informed about delays caused by Act 159 screening, and community / county resource issues that dissuade some State's Attorneys from referring youth cases to Family Court

In addition, the Contractor will submit to SAS and program manager, a quarterly report specifying:

- Number of MOUs developed
- Number of policy or protocol changes established
- Number of trainings or consultations that occurred
- A narrative outlining 'lessons learned' from counties that are implementing substantial jurisdiction change, and detailing obstacles encountered, and progress made with counties that have not yet begun substantial jurisdiction change practices.