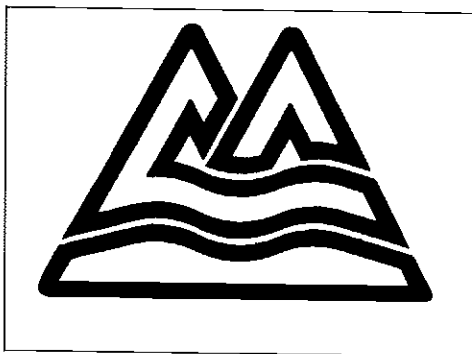


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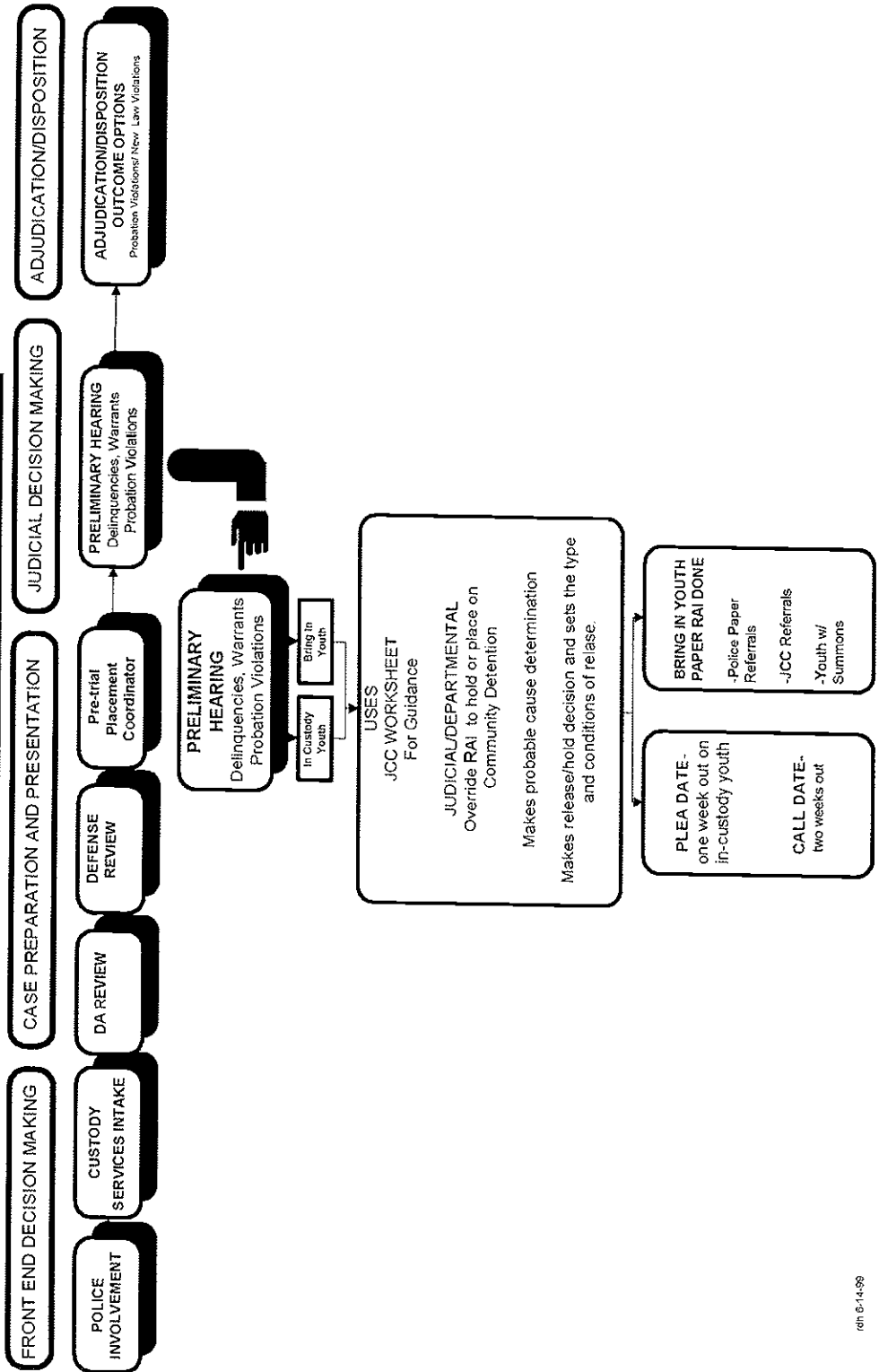
## Section 15

# Judicial Decision-making



# MULTNOMAH COUNTY JUVENILE COMMUNITY JUSTICE

## CLIENT PROCESSING DECISION FLOW CHART



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## **INTRODUCTION**

*The following information outlines the role of the Multnomah County Risk Assessment Instrument in the Judicial decision-making process. This instrument is used at two key decision points: Detention Intake and Preliminary Hearing.*

## **GOALS**

- To recognize how the Judicial Officer incorporates objective detention admissions criteria into judicial pre-trial placement decision-making.
- To recognize the value of consistent case planning and presentation at the time of the Preliminary Hearing.
- To recognize the impact of the Multnomah County model in expediting the Preliminary Hearing process.
- To discuss the value of evaluating case processing time in home jurisdictions.

## **KEY ELEMENTS**

- Application of the Risk Assessment Instrument at the Preliminary Hearing allows Judicial Officers to make pre-trial placement decisions based upon consistent data.
- The consistent presentation of each case lets Judicial Officers make uniform judgements without the variables in delivery and preparation.
- Expanded alternatives allow Judicial Officers choices for appropriate placement.
- System reform results in a more efficient, fairer means by which Judicial Officers can evaluate cases.

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## **HISTORY**

In 1994, the Multnomah County Judicial Officers took part in a series of year-long work group meetings with all of the juvenile justice stakeholders and collaborated on the design of the first Risk Assessment Instrument (RAI).

In the early stages, Multnomah County and its stakeholders thought that objective criteria would be used exclusively at the intake decision point. After analyzing the override data for the first version of the RAI (RAI-I), they discovered that there was a disproportionate number of youth placed in Detention after the Preliminary Hearing who were not held prior to the hearing. The data illustrated that only 8-11% of the youth brought to Detention Intake were held prior to their hearings, according to their RAI scores at intake.

By contrast, the Judiciary were overriding these RAI scores up to 66% of the time for the youth they saw at the Preliminary Hearings, thus causing a dramatic shift in the Detention population between Intake and Post-Preliminary Hearing youth. Youth who were released before their Preliminary Hearings were often given Detention at the hearings, which was not consistent since the risks which they posed to the community had not changed. Based on this data, it was concluded that stakeholders might benefit from the use of consistent detention admission criteria at the second decision point (the Preliminary Hearing).

Additionally, Multnomah County decision-makers came together through the Policy and Decision-Making Team (PDMT) Steering Committee and promoted changes in the RAI one year after implementation. This collaboration helped usher in the consistent use of the RAI at the Preliminary Hearing. The PDMT Steering Committee's main concern was the improved scoring of youth who pose a risk of failure-to-appear for a hearing. After the scoring changes were completed and the second version of the RAI (RAI-II) was implemented, data analysis demonstrated that the number of judicial overrides was significantly reduced, there was increased supervision of low-risk youth in the community, and the Detention population remained the same.

Because Juvenile Court Counselors (JCCs) were allowed to make individual and often impassioned pleas at Preliminary Hearings, stakeholders began to review the role of the JCC in the courtroom. Some JCCs had a tendency to recommend Detention for a youth whose behavior became irritating, but whose offense and circumstances did not necessarily warrant the need for secure detainment. At this point, Multnomah County began to work harder to find suitable alternatives; this was a difficult task since there were few available options. With the introduction of the Pre-trial Placement Coordinator, however, the goal was to have presentations become much more consistent and objective. Multnomah County was then able to

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eliminate pre-trial placement inconsistencies such as, two youths who were charged with similar offenses might not be treated equally by the court.

Preparation of cases prior to Preliminary Hearings was also a noticeably inconsistent part of the process. For a variety of reasons, the defense attorney would often not see any information pertaining to a case or meet a client until the time of the Preliminary Hearing. Therefore, in Multnomah County, juvenile justice reform included improvement in the flow of case information to defense, access to juvenile clients, and collaboration in an effort to standardize the case preparation process.

## **COLLABORATION**

The Risk Assessment Instrument development meetings employed a consensus model, meaning that those attending agreed to abide by a voting process of 80/20 before even starting the discussion process. Multnomah County Judicial Officers and Referees were encouraged to not only attend, but also to provide input and help stakeholders examine the potential impact of the RAI on judicial decision-making. After the vote, all stakeholders including the Judicial Officers agreed to support whatever decision was made by the committee at large. The RAI development team met for one year before the first instrument was ready to be tested and implemented as a pilot screening instrument. The development team was made up of stakeholders from across the Juvenile Community Justice Department and the juvenile court, such as Referees, Judicial Officers, DAs, defense attorneys, data analysts, JCCs, and community service providers. It is important to note that in Multnomah County the juvenile court does not oversee the Juvenile Community Justice Department or the secure Detention facility. Therefore, collaboration regarding the creation and implementation of detention intake criteria and improved case processing strategies was critical to avoid sabotage by any one group of stakeholders.

Throughout the course of these meetings, it was clearly established that Multnomah County would function in an environment of change. Therefore, Judicial Officers agreed to support decisions for a specified time period, such as one year. If, at the end of the year, there were sufficient findings based on data analysis, Judicial Officers and stakeholders would then review these decisions and determine whether discussions and/or revisions were necessary.

Multnomah County Judicial Officers and Referees continue to provide and receive recommendations from standing committees and work groups such as the PDMT, Detention Reform Team (DRT), and the Detention Reform Legal Team (DRLT).

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## **IMPLEMENTATION**

The Judiciary of Multnomah County targeted three goals that they wanted to accomplish through the reform efforts.

1. The Referees/Judicial Officers would be provided with *all* of the case information required to make a sound placement decision.
2. Each case would be *prepared* consistently.
3. Each case would be *presented* consistently.

These three goals were considered essential because they would enable the County to give each case consistent attention during the court process. Multnomah County's Juvenile Community Justice Department believes that if each case is prepared and presented in the same manner, fair and consistent decisions will be made each time. If, however, a Judicial Officer is presented with a case in which there are extenuating circumstances, that official still has all of the information necessary to override the Juvenile Community Justice Department's recommendation and adjust the level of community supervision or hold the youth in Detention until an appropriate release plan can be made.

The Judicial Officer has a critical message to bring to both the planning and implementation phases of detention reform. The Judiciary must retain the final responsibility for each and every decision made in the courtroom. The RAI is a useful guide but it does not take the place of deliberate, responsible fulfillment of judicial duties. Additionally, the philosophy of detention reform and the use of objective detention admissions criteria also provides accountability on the part of Judicial Officers and Referees.

## **OBSTACLES**

One of the greatest challenges of detention reform is keeping everyone involved and informed about the direction and purpose of system-wide change. For the most part, the application of the RAI is a major departure from past judicial experiences. Changing the process was successful because all participants felt some commitment to the RAI and how it had been developed, even if they did not participate in the early stages of the process. A shared sense of purpose is the best hope for broad respect for and compliance with a risk assessment instrument and detention reform as a whole.

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Another challenge is that of continued reform. All too often in a governmental process, changes are made and then "set in stone." The critical and ongoing role of Judicial Officers in detention reform is to use the RAI and to assist in its refinement. Multnomah County is currently in discussion about revisions to the third version of the RAI (RAI-III) and the potential creation of RAI-IV. While the impetus for revision has not come solely from Judicial comments and complaints, these have definitely played a role. One of the issues under consideration for the fourth version of the RAI is whether a single risk assessment score is specific enough for decision-making purposes. Possible changes include dividing the Risk Assessment Instrument into separate categories, which would clearly separate the scores for the risk of failure-to-appear in Court and the risk to the youth or public safety.

The mechanics of effective feedback to the Judiciary relate to both identifying cases where the court doesn't follow the RAI's recommendation and attempting to identify the cause of these overrides. For instance, data analysis shows a large number of overrides for sex offender cases. These youth often have a low RAI score, but are perceived as high-risk by the public. Instead of overriding these youths' scores, the County may decide to make sex offenses a Special Detention case and assign an appropriate number of points on the revised RAI, which would require these youth to be held until the Preliminary Hearing. At this time, the youth would be eligible for release after a Judicial Officer reviewed the pre-trial release plan.

There are a number of issues that are still under development in Multnomah County's reform process in terms of resources for the treatment of certain youth needs. One of the biggest problems which still exists in the Multnomah County system is the lack of secure drug and alcohol services for both pre- and post-adjudicated youth.

Another concern with the system is that it is nearly impossible to treat a youth with a "conduct disorder." This broad term describes someone who acts out in a negative way. Detention alternatives and post-adjudicated treatment programs rarely accept these youth because they are not considered "treatable." The federal government does not consider a conduct disorder to be a medical problem, so health insurers do not pay for it. Since there is no funding, most treatment facilities will not admit these youth. Therefore, they end up within the juvenile justice system time and time again.

The reformed system is trying to meet the needs of low-risk, high-need youth who need to be connected with the right services in order to stay out of the system. Most of these youth have a history of running away from home or placement. They are often held rather than released because the system sees them as a risk of failure-to-appear for adjudication.

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## **THE NEW REFORMED SYSTEM**

In order to resolve the inconsistency of case presentation in court, today in Multnomah County the Judiciary hears recommendations for Detention or a detention alternative solely from the Pre-trial Placement Coordinator. This individual takes the input from Juvenile Court Counselors into consideration along with RAI scores and other factors. He/she then presents Judicial Officers and Referees with a single Juvenile Community Justice Department recommendation for each youth during the Preliminary Hearing. Judiciary Officers are also provided with all information pertaining to each case, such as the RAI score, JCC report, police reports, etc., but they rely on a consistent presentation by the Juvenile Community Justice Department in order to help them make fair decisions.

One of the most significant advances of the Juvenile Detention Reform Initiative for decision-making is the expansion of the alternatives to detention from which Judicial Officers and Referees can choose. The development of pre- and post-adjudication alternatives for youth provides resources for the Judicial Officers to use in deciding the most appropriate plan for each individual case.

The newly-available detention alternatives have also provided more opportunities to secure ongoing County funding for those alternative programs which have been demonstrated as effective. The continuum and expansion of these programs will supervise an increased number of pre-trial youth in the community.

Juvenile Court Counselors now have better access to resources for youth. The use of the new case classification system and the restructuring of their cases has allowed them to supervise in a more consistent, productive manner.

## **DATA-DRIVEN DECISION-MAKING**

The continued funding for alternative programming as well as the creation and implementation of new programs are based on demonstrated effectiveness and program evaluations which are presented to the Multnomah Board of County Commissioners on a yearly basis. Program utilization trends are analyzed and a report is provided to the DRT Steering Committee on a monthly basis. This report is prepared by the Juvenile Community Justice Department's Senior Data Analyst. These reports include the rates of re-offense and failure-to-appear, as well as the percentage of youth who successfully completed the program.