
CHAPTER 2

Juvenile Justice System and Court-Ordered Placements

Complex Juvenile Justice System Makes Residential Treatment an Option Only for Some Troubled Youth

It is essential to understand the complicated judicial and statutory framework for COPs.

Although COPs can take many forms, this report focuses on issues associated with juveniles in Wyoming RTCs. Before turning to specific findings about RTC placements, however, it is useful to know how juveniles are processed through the justice system and levels of court: District, Juvenile, Circuit, and Municipal Courts. According to the State Advisory Council on Juvenile Justice and other observers, Wyoming’s juvenile justice system is unclear, difficult to describe, and something of a maze to navigate. Understanding the judicial and statutory framework within which COPs are made is an essential prerequisite to making statutory, policy, and procedural improvements to the process.

Juvenile Courts Share Jurisdiction With Other Courts Over Most Children’s Cases

Children’s cases can be handled in all levels of court.

In Wyoming, only some youthful offender cases are handled in Juvenile Court, a branch of District Court. Juvenile Courts handle all substantiated child abuse and neglect cases referred by the prosecuting attorney, as well as delinquency cases (other than status offenses¹) of minors under the age of 13. Cases involving other children can originate and be tried in Circuit or Municipal Courts, which are both adult courts, and the prosecuting attorney can also seek to transfer these cases to District Court, where the juvenile will be tried as an adult – or to the District Court sitting as Juvenile Court, for the young person to be tried as a juvenile.

¹ Status offenses are acts such as truancy and curfew violations that, if committed by an adult, would not constitute an act punishable as a criminal offense or violation of a municipal ordinance. *W.S. 14-6-201(a)(xxiii)* However, status offenses do not include violations of *W.S. 12-6-101(b)* or *(c)*: possession of alcoholic beverages or using a false identification to purchase alcoholic beverages.

Multiple entry points mean children can be treated very differently.

One description that offers some clarity is that the juvenile justice system has several doors through which a young person can enter, only one of which leads to Juvenile Court. The following information elaborates on that concept and provides a general context for understanding how some juvenile offenders come to be court-placed at RTCs to receive treatment, while others are prosecuted as adults and may be convicted of a crime and sentenced to detention without the same opportunity for specialized treatment.

A Primary Purpose of the Juvenile Justice Act Is To Rehabilitate the Child

Juvenile Courts have special proceedings to protect and treat children.

As is true in other states, Wyoming bases its criminal justice system for juveniles on principles of treatment and rehabilitation, as opposed to criminal prosecution and punishment. Juvenile Courts have special proceedings, the underlying philosophy of which is the belief that society should handle children who misbehave differently than adults, since children lack the maturity to fully understand consequences. The process is aimed at protecting the best interest and welfare of the minor while treating the problem.

Title 14 of Wyoming Statutes sets out three categories of youth who come under the protections of Juvenile Court: abused and neglected children, children in need of supervision (CHINS), and delinquents.² Juvenile Courts must consider a mix of legislative purposes when dealing with these three categories of youth. Title 14's overall emphasis is on treatment and protecting the best interest of all children, and its other purposes have the same general tenor: to protect public safety and welfare, to discipline and rehabilitate the youth, and to remove the taint of criminality from them.³

² A delinquent act is one that would have been a crime if committed by an adult. Crimes are defined by Title 6 of Wyoming Statutes.

³ Punishment is a statutory purpose only for those youth adjudicated as delinquents. *W.S. 14-6-201(c)(ii)(A)*

MDTs assist the judge in determining how to handle children's cases.

Special provisions apply to Juvenile Court proceedings. Children are not convicted but instead are “adjudicated”⁴ (and thus not stigmatized); their records are confidential, the public is excluded, and hearings are informal; and the judge is required to appoint a multi-disciplinary team (MDT) to assist in developing recommendations for how best to handle the case. The Juvenile Justice Act emphasizes accountability and responsibility not only of the juvenile but also of the family. The court’s authority over parents can be important in assuring that the juvenile’s treatment needs are not addressed in isolation from other causative factors.

Only the Juvenile Court can place a young person at an RTC.

The goal of the Juvenile Court process is, whenever possible, to achieve positive outcomes for young persons in a family environment. When this is not possible, the court may give custody to DFS and order the juvenile to be placed in an environment outside the home that will provide the protection and treatment that were not available there. Only the Juvenile Court, not the adult courts, can order therapeutic interventions for the juvenile and the family to address issues related to the youth’s situation and condition, and only the Juvenile Court has authority to “place” a young person at an RTC.

Juveniles Accused of Crimes Also Can Be Prosecuted In Adult Courts

Few of the children who come into contact with the legal system appear in Juvenile Court.

Because Title 14 applies to just a small portion of the juveniles who come in contact with the legal system,⁵ most young persons who come into contact with the legal system do not appear before a Juvenile Court. In 2002, over 6,000 juveniles in Wyoming were arrested for offenses ranging from minor misdemeanors to violent felonies, yet only 854 delinquent cases were disposed of in Juvenile Court. Little collective information exists about the outcomes of the other 5,000+ juvenile arrests. The State Advisory Council on Juvenile Justice has undertaken a project to develop a central data system for collection of information on juvenile offenders, but at present, the lack of historical data makes

⁴ Adjudication means there is a finding by the court or the jury, incorporated in a decree, as to the truth of the facts alleged in the petition. *W.S. 14-6-201(a) (i)*.

⁵ Only certain children, such as those who are abused and neglected, CHINS, and those under 13 who are accused of a felony or a misdemeanor punishable by more than six months in jail, are guaranteed a hearing in Juvenile Court.

it difficult to track and analyze what has been happening to juveniles involved in Circuit and Municipal Court proceedings.

Children prosecuted and convicted as adults are likely to be punished, not treated.

Even though precise statistics are not available, it is known that most children enter the court system when they receive a citation from a law enforcement officer for a misdemeanor offense; these offenses often involve allegations of alcohol or drug use. Criminal violations can be cited into the adult court systems of city and county government, Municipal or Circuit Court, or into District Court. If prosecuted and convicted as adults, they are likely to receive punishment, not treatment. Thus, how a juvenile is charged determines where (in which level of court) the case will be heard.

In Adult Court, Juveniles Do Not Receive the Same Protections and Opportunities

Juveniles whose cases are heard in adult court face very different procedures and consequences than in Juvenile Court: they can be tried, convicted, and sentenced as adults. Municipal and Circuit Court proceedings are open to the public, criminal conviction with a criminal record is a possible result, and incarceration may be ordered. Juveniles in adult courts do not have the benefits that Title 14 provides such as the possibility of treatment and court-ordered involvement of the parents.

Statewide, sentencing practices vary considerably.

Sentencing practices vary considerably around the state, but typical dispositions of Municipal and Circuit courts are diversion, fines, community service, probation, or time in a juvenile detention facility or jail⁶. There is little reliable information about what treatment and educational services juveniles receive while in detention. Detention can be ordered in both pre-trial and post-conviction (or post-adjudication, in the case of Juvenile Courts) circumstances, with some courts sending juveniles to detention in adult jails and others ordering them to juvenile detention

⁶ In 2003, at least 400 juveniles were held in adult jails in Wyoming: the majority of them were of pre-trial or accused status, and some were under 13 years of age. Wyoming is the only state that does not fully comply with terms of the Juvenile Justice and Delinquency Prevention Act of 1974, which requires eliminating the practice of detaining juveniles in adult jails. Many more juveniles were held in juvenile detention facilities.

facilities.⁷ Both types of detention are correctional and punitive.

Officials in local jurisdictions decide how juveniles will be brought to court.

Under this structural arrangement, with local jurisdictions deciding how juveniles will be brought to court, law enforcement officers and prosecuting attorneys become the principal gatekeepers of the juvenile justice system. The actions and decisions of individuals in these positions around the state determine whether a citation will be issued or criminal charges filed against juveniles (which takes them into the adult court system), or whether a petition will be filed in Juvenile Court. This “door” into Juvenile Court (the filing of a petition) can be critically important because it opens up options for an entirely different process and outcomes for the juvenile.

Depending on Location, Youth Can Be Subject to Different Standards, Procedures

The system gives decision-making latitude to a number of professionals at every step of the way – local law enforcement officers, prosecuting attorneys, judges, and MDT members who advise the judges, and all have considerable discretion in deciding whether and how a case will proceed. Community norms about youth, crime, and punishment, as well as the attitudes and working relationships among local law enforcement, attorneys, judges, and DFS personnel, vary greatly and can also influence these decisions.

Statutory sanction guidelines are not routinely referenced in MDT reports and court orders.

Because the system has so many decision-makers and allows so much flexibility, local practices vary widely. The Legislature established statutory “Progressive Sanction Guidelines”⁸ to “ensure that juvenile offenders face uniform and consistent consequences” statewide, but MDT reports and court orders do not ordinarily reference these sanction levels.

Children convicted in lower courts for

The system can also produce illogical outcomes. For example, children who commit minor offenses are usually charged as adults and even though treatment and rehabilitation can be quite

⁷ Frontier Correctional Systems, Inc. operates two juvenile detention facilities, one in Natrona County and the other in Laramie County; Fremont County operates its own juvenile detention facility.

⁸ W.S. 14-6-245 through 252.

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effective at this stage, these children generally do not have that option. Furthermore, juveniles convicted in lower court for misdemeanors may end up with criminal records, while those who have committed more serious crimes and appear in Juvenile Court do not – they may be ordered to receive treatment instead of punishment for their problems.

Statutes Support Community-Based Services, But Statewide There Are Gaps

Although Wyoming statutes support the concept of community-based services for juvenile offenders and mentally ill youth, many communities around the state lack a continuum of alternatives to meet these needs. Where local programs are not fully developed, out-of-home and out-of-community treatment may be the only options.

***Community-based
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communities.***

Since passage of the Community Human Services Act of 1979, statutes have encouraged development of comprehensive community services for youth. Law enacted in 1983 allowed counties to receive juvenile community alternative funds “to keep youth in the home and community and to work with the family....” Community Juvenile Services Boards⁹, created in 1997, were designed to enable communities to establish juvenile services and allow decisions about those services to be made locally. Although the latter mechanism remains on the books, the Legislature has not appropriated state funding for it and it is not presently in use.

Despite statutory authority for a network of community-level alternative programs for youth, their present status can be characterized as widely varied: some cities, towns and counties have developed their own local diversion projects and services for youth, while others have created little of this nature. The “coordinated network of services” for juveniles envisioned in 1983 legislation has not been developed, and creation of DFS under the reorganization of state government in 1991 has brought about neither the strengthened “Continuum of Care System” nor the lower costs hoped for at the time.

⁹ W.S. 14-9-101 through 108

The Legislature Has Attempted to Improve Wyoming's Juvenile Justice System

For more than two decades, the Legislature has tried to improve the juvenile justice system while attempting to introduce more state-level accountability and cost control over COPs. We reviewed over 20 reports from conferences, consultants, independent reviews, and legislative task forces and evaluations written since 1979, all concerning some aspect of Wyoming's juvenile justice system or treatment of mentally ill adolescents. The most recent of these efforts was a legislative Select Committee on Juveniles in 2003, charged with studying specific aspects of Title 14.

Decades of studies and reports came to the same conclusion: the state lacks a uniform juvenile justice system.

We found considerable similarity and overlap among the findings and recommendations in these reports. Many of the studies concluded that the state does not have a uniform juvenile justice system, and that youth can be subject to disparate treatment depending on where they live, where they are arrested, how and if the elected prosecutor charges them, and in which court they appear. Most of the reports have at least one recommendation directed at correcting this lack of uniformity, such as designating a county gatekeeper, mandating consistent assessment procedures, establishing a family court, or requiring more central coordination.

Although the Legislature has not implemented these particular recommendations, it has made a number of changes ostensibly aimed at either controlling costs or providing more uniformity and consistency to the COP process. For example, when placing a juvenile in an out-of-state RTC, courts are required to state on the record why no in-state placement is available. Courts also must enter on the record their reasons when deviating from an MDT's recommended disposition.

Although Uniformity Within the Juvenile Justice System Remains Elusive, DFS Can Improve Its Performance

In 1981, the state released a report from Columbia Research

Center, which conducted a 15-month study to evaluate Wyoming's juvenile justice system. Allowing for legislative changes in court structure that, in subsequent years, have eliminated the Justice of the Peace function and County Courts while creating Circuit and Drug Courts, our research suggests the consultant's findings continue to apply in 2004 (see excerpts from the Columbia report on page 19).

DFS can take a more active managerial and leadership role.

Past efforts to clarify, simplify, and make this complicated structural arrangement more uniform have not changed its fundamental makeup. Historically, in sorting out and defining its role within this system and in implementing its statutory responsibilities, DFS has carefully picked its way through contradictions and complexities and has not taken on an active managerial or strong leadership role. The next chapters examine specific areas, the contracting and payment process, the need for a uniform assessment function, and the monitoring of treatment, where we think DFS needs to make significant changes and become more proactive.

prosecuting attorneys and the Juvenile Court judges.... This flexibility may mean that children in different parts of the state receive radically different treatment for similar problems and needs.”

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Excerpts from *The Wyoming Juvenile Justice System: An Evaluation*
Columbia Research Center, Vancouver, Washington; 1981

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¹⁰ Justice of the Peace and County Courts have since been replaced with Circuit Courts.

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