

Meeting Minutes
Monday, August 12, 2019
Capitol Annex, Room 154

Members Present: Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Commissioner Denver Butler, Department of Juvenile Justice (DJJ); Secretary John Tilley, Justice and Public Safety Cabinet, Rachel Bingham for Laurie Dudgeon, Director, Administrative Office of the Courts, Mr. Steven Gold, Dr. Ronnie Nolan, Director, KECSAC, Damon Preston, Director, Department of Public Advocacy; Elizabeth Cawood for Commissioner Eric Clark, CHFS Department for Community Based Services, Christina Weeter, Kentucky Department of Education and Judge Lisa Jones, Chief District Judge.

Members Absent: Commissioner Wendy Morris, Behavior Health, Development and Intellectual Disabilities, Lt. Phil Russell, Louisville Police Office and Dr. John Sivley, Behavioral Health Service Provider.

I. Welcome/Call to Order

Senator Westerfield welcomed everyone to the JJOC meeting. He accepted a motion from Steve Gold and seconded by Judge Lisa Jones. Both the May and June minutes were approved. The May minutes had been amended. There was no other discussion on the minutes original or amended. The minutes were approved.

Senator Westerfield recognized Secretary Tilley for comments. Sec. Tilley thanked everyone and apologized for missing some of the meetings but it was not for a lack of effort. He spoke about the many changes occurring a Justice and said there was ample coverage for JJOC and he received good reports on the council. He spoke about reform juvenile justice has undergone during the last couple year, especially Senate Bill 200. He talked about the success of SB 200 and its implementation across the state. He took a moment to introduce DJJ's Commissioner, Denver Butler. Tilley said in the short time that Butler had been Commissioner (and when we had presented him with that role) he has brought confidence and assurance to this position and has a great deal of passion. Tilley said the Commissioner had a "goal driven" agenda and he has a great success with that personality.

Secretary Tilley also spoke about the Children's Center for Law and Policy and the high standard expected in our facilities, including how we take care of the children that are entrusted to our care. With that, we have benchmarked DJJ against the highest standard

expecting that there was a long way to go. He spoke about the number of challenges, which was inherited and noted that DJJ still experiences a 126% turnover in frontline juvenile justice workers, I, II, III. He noted that anyone in the private sector, which experienced one-tenth of that, would be unacceptable. Tilley said those are the types of challenges we face and he challenges the upcoming legislature will face in funding the Justice Cabinet particular Juvenile Justice. The Secretary said ways to increase salary without a line item appropriation but said that was not enough. Commissioner Butler will face that challenge in the upcoming session.

Secretary Tilley also spoke on the work with an outside group to provide the best care and rehabilitation we can for the youth that are entrusted to our care. As a side note, Secretary Tilley said he would like to look at the elimination of status offenders. He noted the NPR piece, which talked about the discouraging decline in the detention of status offenders.

Secretary Tilley yielded to Commissioner Butler for comments.

Before yielding the floor to Commissioner Butler, Secretary Tilley said that if anyone saw something that juvenile justice could do better, whether advocating certain policies or the work, which is done in facilities, please let him or know. He said he wanted the people to hold justice to the same standard we hold ourselves despite the challenges we face.

Commissioner Butler thanked everyone and said it was an exciting challenge for him. He spoke about his children and said if his kids were in a DJJ facility how he would want them treated. He said he look forward to working with everyone involved.

Senator Westerfield thanked Secretary Tilley and welcomed Commissioner Butler. Chairman Westerfield asked Dr. Nolan to come to the table and present.

Dr. Nolan introduced himself and began his presentation of Census 2018, which is a demographic overview of the population KECSAC serves in state agency programs across Kentucky.

Dr. Nolan noted KECSAC was created by the General Assembly in 1992, and is a collaborative of KDE, DJJ, DCBS and Dept. for Behavioral Health, Development and Intellectual Disabilities. All these agencies working together so that we can serve the holistic needs for each child that comes into contact with any of our state agencies within the Commonwealth. Dr. Nolan said it was a wonderful opportunity and it not often seen.

Dr. Nolan noted several groups from across the county had visited KECSAC. The American Youth Policy Forum, a non-profit agency in Washington, D.C., who looks at

educational issues is one of the groups that both KECSAC and KDE has been working with to look at alternative education in Kentucky. Dr. Nolan said KECSAC had collaborated with the group to travel to other states to look at what is happening and what are best practices so that KECSAC can implement those practices and improve the services we have to offer.

Dr. Nolan noted that KECSAC is in a preliminary discussion with the US. Government Accountability (USGAO) who are looking at alternative education across the country and they are focusing their attention on three states, Kentucky, Colorado and California.

Dr. Nolan said the mission of KECSAC is to ensure the students receive a quality education and that is done by establishing and maintaining collaborative relationships all the public agencies mentioned before and schools districts. The services KECSAC provides all over the state are provided by the local education agency or the local school district. Dr. Nolan pointed to the KECSAC booklet and the map at the back of the book, which shows the location of every program.

He said KECSAC is involved in 51 school districts (which is expanding in a few months) and 80 state agency program. That is maintained on a \$9,465,500 budget used to provide supplemental services for children and youth who are in care of the Commonwealth. He noted those services include an extended school calendar and smaller classrooms to name a few.

KECSAC has approximately 11,500 students who come through the door each year.

Dr. Nolan noted that the Census Report is taken every Dec. 1 of each year. He noted the trend in enrollments citing 2011, which had 2,700 students in classrooms across Kentucky and Dec. 2018, when 2,100 students were enrolled.

Dr. Nolan also talked about the number of programs, which has also changed during that same time frame. He said several programs with the Community Based Services who are no longer providing residential services and they have shifted their by providing community based service rather than residential. In addition, DJJ has reduced the number of programs, which they served across Kentucky as well. Bottom line is we have a lower number of programs and a lower number of students.

Dr. Nolan said those figures were the one day count on December 1st, but said KECSAC also takes a year-wide count so they will know how many different students come through the program each year. In the past year 2018, it was 11,500 students. Dr. Nolan said he shared those two different numbers because it is important to know that on any given day,

you will see about 2,100 students in our system but in the course of the year, we have 11,500 different students, which tells us we have a lot of fluidity and transition within this population of students.

Christian Weeter wanted to clarify the number by asking if those students were an unduplicated count, meaning if a student is in a KECSAC program, and then exited, and came back in within the same year they would only be counted once or twice in the year.

Dr. Nolan said it was a one-time count, and all the data is gathered through Infinite Campus. In addition, he added it had been double-checked to make sure students were not being counted multiple times.

Chairman Westerfield asked in the MOA's within KECSAC programs you are funding require that data?

Dr. Nolan said yes. KECSAC has a contract with the school districts (they do not contract with programs) and districts are required to submit all the data that is included in the report. A child count is conducted four times a year and those numbers are double checked against the Infinite Campus system. KECSAC has an articulate with the Department of Education, which allows us access to Infinite Campus for reporting purposes on the population, which KECSAC serves.

Dr. Nolan went on to say that several years ago through a partnership with KDE, created an Infinite Campus tab, which is a data collection point within the Infinite Campus system, which is specifically to state agency children. He added that all KECSAC programs enter information into that tab regarding that individual child, which allows KECSAC to track the progress of each child who is in state care.

Dr. Nolan said Kentucky is very unique in having the Infinite Campus system. He pointed out that most other states do not have a comprehensive student information system and certainly any of the states, which KECSAC has interacted with, has a data specific system for children who are in the care and custody of their state.

Dr. Nolan gave an overview of the types of programs they serve. He pointed out a list, which is contained in the census handout, as well as a child court. He added that most students are in group home or treatment center, which are private childcare agencies through DCBS. He noted a full list was in the directory provided to board members.

According to Dr. Nolan, about 65% of the students we serve in KECSAC programs are DCBS children. DJJ has about 33% and 2% are in behavioral health programs, which include mental health day programs in Kentucky.

Dr. Nolan talked about the shift where youth are being served. In 2008, there was not much of a difference between DCBS and DJJ. Overtime, that has shifted dramatically and you can see the largest shift occurred in 2015, which Senate Bill 200 went into implementation. The number of students in DJJ programs dramatically decreased during that time while the percentage of students in DCBS increased.

Dr. Nolan talked about the different classifications as to how students are counted, which are directed by statute. Court Ordered to attend a program, DCBS, DJJ and a category that is placed for financed by the cabinet and those are included in our count.

Chairman Westerfield asked (page 11) about mental health day treatment which was referenced. How many mental health day treatments are there in Kentucky? Dr. Nolan said there were two; one is in Jefferson County and it is the Western Day Treatment which is an elementary program serving kids in kindergarten through 5th grade. Dr. Nolan said the program had been recognized nationally and was a partner with Center Stone who provides the mental treatment at that facility and with the Jefferson County Public School. He said it was an exceptional program who provided treatment not just while the students are enrolled but tracking students as they transition out of that program and back into the community.

Chairman Westerfield asked if it was a separate facility entirely.

Dr. Nolan said it was not. It was located within one of their schools.

Chairman Westerfield said it was possible that these types of facilities could be set up all over Kentucky. Dr. Nolan said if funding was available, they could.

Chairman Westerfield asked where that money was coming from. Dr. Nolan said the supplemental funds come to KECSAC through the General Assembly and those funds which are \$9.5 million is divided between all state agency children in the pool and equally Divided.

Chairman Westerfield asked if it was regardless of the program, they are in.

Dr. Nolan said correct.

Chairman Westerfield asked if MHDT is the sole source of funding for that program.

Dr. Nolan said those students as every student generates the same funding as any child in the district would generate, which includes SEEK funding, if they have an identified disability they would generate those funds. For the treatment services that are provided, the Cabinet provides reimbursement to Center Stone for providing those services. Dr. Nolan continued saying the District does not provide the treatment, Center Stone Behavioral Health does.

Rachel Bingham asked if the day treatment consisted of state agency kids.

Dr. Nolan said the short answer was no. There is a more complicated answer is to generate supplemental funding from KECSAC, they have to be a state agency youth. He added that KECSAC has children in almost every day treatment that are not state agency children. They are students who are referred by the District because the District has decided they need supplemental support, which the day treatment provides. The District pays the difference for that out of their own operating expenses without any reimbursement from KECSAC.

Rachel Bingham asked about Medicaid eligibility and if there was any way to obtain reimbursement for students. Dr. Nolan said yes if they are eligible and the mental services in those programs are provided by the local mental health agency. At Western Day Treatment, services are provided by Center Stone. The other program which is the Aspire Program in Corbin Independence School and they have Cumberland River Comp Care who provides their treatment services. The treatment partners are reimbursed not by the District, not by KECSAC but through Medicaid Services.

Dr. Nolan said that one of the things, which has been, discussed in council are the need for additional mental health services in day treatments across the state. KECSAC is certainly open to that. It just comes down to a funding issue and how those services would be provided and who would be responsible for the cost of those services. KECSAC is very open to those partnerships should they become available.

Judge Jones asked where the second facility was located and Dr. Nolan said it was in Corbin Independent Schools and is called The Aspire Program. It is a high school program.

Dr. Nolan continued saying that a couple years ago one of the additional classification was Fair Team referrals. Prior to Senate Bill 200, students who went before a court as part of their first step in the system, and many times a local judge would order those students to the local day treatment program. However, with the passage of Senate Bill 200, we have

built in multi steps for diversion and other local services that are not to the level of need that a day treatment may require. Thus, the drop in numbers in 2015. That was largely part due to students not being served in day treatment programs because they were not being assigned to a day treatment program through the court system. Dr. Nolan added that two years ago, KECSAC went back to the legislature where Rep. Bam Carney was a sponsor of a bill for us along with DJJ and Jason Reynolds who did a great job advocating for legislation, which added back in Fair Team referrals to the day treatment program. With the passage of that legislation we were able to count those students back in, even though they didn't get before a court to be court ordered into the program, there were still services within the day treatment which include two hours on individual treatment a week and one hour of group mental health services per week by a certified mental health professional. Dr. Nolan added that those are things that many of the kids need that do not necessarily make it to the court system. This bill allowed us to refer those kids back into the day treatment programs. Since that time, Dr. Nolan said there has only been 10 students who have been referred through the Fair Team process and those have happened in only four of KECSAC's programs.

Dr. Nolan noted that KECSAC has been conducting a lot of education with their districts and education staff on how we can refer students and take advantage of the mental health services, which are available through the day treatments.

Dr. Nolan said the next portion of the presentation was the most critical....disproportionality and we talk about racial and ethnic disproportionality but we rarely talk about disproportionality of students who have an identified educational disability. He drew the Board's attention to the Slide 10, which shows that within state agency programs, 43% of these students who are placed into these program have an identified education disability. That is compared to the bottom pie chart of 14% of the general population has an identified education disability. We are looking at the largest disproportionality in student population. Dr. Nolan said that percentage is broken down into 54% low incidence, 44% moderate incidence and 3% high incidence. What that means for KECSAC is the low incidence are the types of disabilities seen least frequently in a public education system but it requires the most intensive education support, including autism, deaf or blindness, multiple disabilities, emotional behavioral disorders, and functional mental disabilities. Those which are the least likely to show up in a traditional public school setting are the ones which are most likely to show up in the educational service KECSAC provide for state agency children. Moderate includes things such as other health impairments, mild mental disabilities, specific learning disabilities, TBI, hearing or vision loss. In addition, the high incident, which is most commonly seen in traditional schools, require the least amount of intensive education support, which includes speech and language difficulties. Dr. Nolan said these figures were shocking to KECSAC when

they looked at the data. It just shows us how many of our students in our have special educational needs.

Dr. Nolan reviewed the chart and pointed out that most educational disabilities identified was the emotional behavioral disorder (slide 11). The second largest is other health impairment and includes ADD.

Dr. Nolan said he thought the next slide (slide 12) was an area that many people were interested in and that was racial and ethnic disparities within our systems. He noted that slide 11 was an accurate reflection. Dr. Nolan said the data reflects the disparity, which Kentucky has been talking about for quite some time.

Dr. Nolan said the next slides; slides 13 and 14 were not a reflection of the foster care system as a whole or the DJJ as a whole. These students are served in a particular program that KECSAC works with. He pointed out the age of students skews high – age 15-17 category.

Dr. Nolan said if you compared slide 13 and slide 14 there is a shift in where those 17-year-old students fall in grade level. It does not match up and data shows that most students are two grade levels behind the first time they enter the KECSAC program.

Chairman Westerfield asked if there was any data on when that time is lost. Dr. Nolan said no. KECSAC has no data prior to the student coming into the system. He pointed out that there is data when you look at the back of the transition data, which is included in the full report, which points out where students come from when they come into our system. You can track where students were enrolled previously or if they were enrolled. Dr. Nolan said KECSAC does have students who were not previously enrolled anywhere, even though they are not allowed to not be enrolled according to state law.

Chairman Westerfield asked Christina Weeter if the Department have any idea as to when that education breakdown happens. Is that something that happened when they were 10 and it has been perpetuated and kept or is there a failure between middle and high school?

Christina Weeter said that without having the data in front of her, she would say based on her general knowledge in this field, the breakdown is progressive. She said KDE has an early warning data tool that takes the information from Infinite Campus and predicts within increasing accuracy which students are most likely not to graduate from high school. Currently that data is available down to students as young as grade six through high school. She said KDE could look at that data but chronic absenteeism data we see there are high numbers of kids in kindergarten and first grade who have high levels of absence, and again

there are large jumps when you get to high school. Ms. Weeter said that generally speaking, it is progressive and there are multiple factors.

Judge Jones pointed out that anecdotally as a District Court Judge by the time kids appear before her, very few of them, if any are in traditional school settings. Either they have had multiple run aways and they have not been enrolled for a long time or they have been shuffled to alternative schools or detention and back to alternative schools. The high school kids are so far behind in credits; they may be 16 or 17 years old and only have maybe one or 2 high school credits.

Dr. Nolan said if you look at national data and research around this issue, our students are very fluid; not just within our system but before they ever arrive at KECSAC. Housing security issues, food security issues, frequent moves before they are ever engaged with our system. Dr. Nolan pointed out that national research shows that every time a student moves they lose significant ground academically with each move. He noted that KECSAC has students who move a lot, KDE have information where a student moved 12 times within a school year.

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Christina Weeter added that after KDE rolled out the chronic absence report that schools and districts can generate using Infinite Campus, which is the student information system, they actually requested us to create a transit student report, which looks at all the “movers.” This includes the kids that are homeless, in foster care, or kids who just tend to move a lot. We have been able to use that tool to identify kids who might need some additional support. She added that it is important to note that a student failing behind or dropping out is really more of a process than an event. KDE is trying to help schools think about the best ways to address that problem early in their academic career rather than waiting until they reach high school where it is very clear because of the credits they must obtain in order to graduate. The student could have been falling behind in middle school but you don’t see it as much until you have testing and milestones which they have to meet to allow them to move forward to the next grade and eventually earn enough credits to graduate.

Dr. Nolan noted that a couple years ago with the help of Rep. Bam Carney, KECSAC was able to obtain passage of legislation which allowed students who were identified as state agency, who were 17-years-old to be duly enrolled in the diplomacy program while also pursuing a GED.

Dr. Nolan explained the percentage factors in slides 19, 20 and 21. Chairman Westerfield asked how many of those are counted earlier in your percentages. Dr. Nolan said they were all counted earlier in the data. All those students are in the same data. When you go back

to the ages (Slide 21) when you look at age 14, we have 18 students beyond that age. So all 18 of those students have an educational disability.

Dr. Nolan pointed out that KECSAC has 17 graduates in their programs still receiving education services. He noted that a student could have completed the entire requirement for a diploma but still have time remaining at a DJJ program. He added that while they do not generate any SEEK for those students or any IDEA money or any other additional money, the school districts still provide educational services to those students out of their general funds, include vocational and dual enrollment in college classes and internships.

Chairman Petrie asked about correlation between male and female in the public system. What is the mixture? Dr. Nolan said it was 50-50.

Dr. Nolan spoke on the state agency snapshot (slide 22) where students are located within the system. Chairman Westerfield asked if these numbers were consistent and Dr. Nolan said yes.

Chairman Westerfield asked what psychiatry hospitals are there that are holding or detaining or housing 268 kids. Dr. Nolan said Peace Hospital in Jefferson County, which is one of the largest programs in the state. Dr. Nolan recommended a visit to that program. He said the level of educational services, which are provided there (from K to age 21), is amazing.

Chairman Westerfield asked how many people do they house and Dr. Nolan said they could have up to 400 students at one time. Chairman Westerfield asked what triggers putting a student in there? Dr. Nolan said there were many triggers that may lead to a student needing additional psychiatry care; alcohol and drug treatment, suicide attempts, escalating behavior, which results in a recommendation from a doctor. Chairman Westerfield asked if it required a physician's referral. Dr. Nolan said yes.

Rachel Bingham said with our obvious interested in community based settings, which are all over the state, how do we handle keeping kids as close to their community as possible? She asked Dr. Nolan if KECSAC had the same requirements any other service access resource.

Dr. Nolan said that DCBS does all the placement. KECSAC does not do any placement in the local school district. Both organizations have guidelines, which place the student in the least restricted environment with the first option being foster care or kinship care. Then based on the level of need a student has, there are programs across the state, which specialize in particular areas of service that a student may need, and unfortunately, that

program may not be the closest to their home. Dr. Nolan gave the example of Peace Hospital in Jefferson County is the highest level of psychiatric hospital in the state. Students from Fulton County in far Western Kentucky would have to travel to obtain the service they need.

Rachel Bingham asked how this would affect Family First, which goes into effect October 1st.

Elizabeth Cawood with the Department of Community Based Services standing in for Natalie Kelly said the majority of these require a clinical need. Families First is really going to hit the group home, treatment center and temporary shelters. There would have to be a clinical need for us to place the child in this type of place setting. Otherwise they would have to be in a community based setting. We cannot use group homes for placement so that 692 number would decrease (slide 17).

Chairman Westerfield said that 268 (slide 17) seemed like an extremely high number and I do not know that we detain that many adults in the state for psychiatric hospitalization on any one day. I am curious to know what is the average length of stay, what the population looks like in terms of diagnosis and what is getting a kid in there, and how long are they staying. In a world where we are trying to move away from institutionalization and into the community based resources and program. That number is unbelievable.

Dr. Nolan said he could provide him with the length of stay information but I do not have access to diagnosis or reasons for referral to that program. Dr. Nolan said the length of stay in those hospitals are very low. He added that in most cases, it is an acute situation and hospitalization is less than 10 days. He continue saying that once a student shows that they are no longer a threat to themselves they are referred out of that program and into a step down facility across the state.

Dr. Nolan explained that students who have hurt themselves or others and need a temporary placement within a psychiatric service facility would move from a group home to that facility until that situation is resolved.

Chairman Petrie said that assuming the stay is relatively short (10 days) this is a snapshot. Can you find out what the deviation is? Does it drop down to 100 and then back up to 300. Was 268 just this day or is it regularly this high?

Dr. Nolan said it was a stable number at 268 throughout the year. He continued by saying KECSAC can pull out that particular program and show you how many different students

they have had throughout the year. It is a significant number of the population that come in and out of those facilities.

Christina Weeter asked who would have the data for the reason for the referral. Would it be Behavioral Health? She added that with KDE's work with them there is a huge number of suicidality among young people. It is the second leading cause of death for ages 15-34 but recently changed to number one leading cause. We are very concerned and are working to prepare educators to have some age appropriate conversations about suicide and I think it is the reason of such high numbers. I too are curious to know the referral for those numbers.

Chairman Westerfield said he would like some feedback from Commissioner Morris for any feedback regarding this issue.

Elizabeth Cawood said that in terms of the psychiatric hospitalization. CBDS does have a medical director on board who is studying diagnosis, the use of psychotropic medications and various behavioral health indicators across the foster care population. A good many of our children have suicidal as contributing factors as to their hospitalization.

Dr. Nolan continued his presentation by breaking down the racial percentage of the DCBS programs (Slide 18).

On slide 22, Dr. Nolan reviewed the Department of Juvenile Justice breakdown based on the type of program KECSAC has and the other different types of programs they have, i.e. contracted day treatment programs which DJJ enters into a contract with the local school district and the local school district provides all services, including that mental health treatment which we talked about earlier. All the other programs are owned by DJJ, and all staff who provide treatment in those programs are DJJ employees. Dr. Nolan said most of those students are in community-based settings, live at home, and attend a day treatment program or they ride the bus to that program, get mental health services and education there and they return home at the end of the day. It is a direct reflection of DJJ providing more community based services and moving away from restrictive residential environment.

Dr. Nolan talked about day treatment programs prior to Senate Bill 200 and where we are now. (Slide 24). He also spoke on the number of kids within DJJ who have an educational disability (Slide 25). Most of them are emotional behavior disorder, which is 47%.

Dr. Nolan continued by breaking down DJJ students into race, educational disabilities and age. (Slides 25-30).

Dr. Nolan concluded by sharing some good news about the programs. Information gathered from the Title I Federal Report, tested students in a pre and posttest who are in the program for at least 90 days (752 students). Those students 63% have increased one full grade level in reading, with 40% of those moving more than a full grade level in reading. (Slide 32). Dr. Nolan said the same holds true for math (Slide 34).

Dr. Nolan stated that KECSAC students do not test on grade level on state assessments and there has been a lot of discussion as to why these students are testing to their grade level. He said while there may be many reasons for that, KECSAC has a student for an average of 100 days. Those students who stay with us 90 days have significant growth. However, the issue remains that when we receive a student, the data tell us that student is two to three grade levels behind.

Dr. Nolan ended his presentation speaking on the challenges, which KECSAC faces which include frequent transitions, length of stay, varying graduation requirements, record transfers, academic preparedness and funding gap for required services from the legislature.

Damon Preston asked about the mental diagnosis. The highest number of emotional-behavioral disorder. Where is that diagnosis coming from? Who is making that diagnosis? Have they been diagnosed sometime during their life or is there a currentness to this.

Dr. Nolan said these are students with an active IEP which the school district. The school districts must follow all the standard and required educational assessment requirements for any student in any district in Kentucky, which means that they have an initial assessment period, and follow up throughout the system to ensure the needs identified in the IEP are still relevant and if the student still requires those special services.

Damon Preston asked if Dr. Nolan for those with that diagnosis or any of the specific diagnosis listed, do you have comparison figures for how the population within the state agency children compare with the population at large, similar to data for race.

Dr. Nolan said they do. If you look at the slide with the disabilities that we have (Slide 10) under the categories, for those EBD students 53% of those students fall under that category and that compares to 14% in the state system. It is a very small number of students in the general population.

Steve Gold said he wanted to follow up on what Mr. Preston was talking about, which is the interplay between the disability and the time of diagnosis. Does Infinite Campus track dates on when IEPs are written and altered?

Dr. Nolan said yes you are able to generate a report within Infinite Campus to show that students. The data is there but it would take some cumbersome digging to find it.

Steve Gold said that he had noticed in court was many of the kids coming into juvenile court have IEPs. Very often it is ADD, ADHD or EBD. Is it that they are having behaviors which are troubling to the school and then the students ends up with a diagnosis or is it that they have these disabilities that are undiagnosed for a long period of time and eventually lead to that behavior that make the school mad. Do you have a sense as to which one that is?

Dr. Nolan said they have this discussion often with DJJ, KDE and DCBS. What is the cause and effect? We do not have a definitive answer on that issue.

Steve Gold said that it appears that once you have a student into your setting, you are having good success to increase their math and reading. Dr. Nolan said yes, if and only if they are there a significant amount of time and most of the students are not. When you looked at the 11,500 students we have, only 792 that were there more than 90 days. The number of students staying in our facilities long enough to demonstrate growth is actually very small.

Christian Weeter said there is not one answer to that question because from what we know from adverse childhood experiences is correlated to negative health outcomes, both mental and physical health. When you think of some of the trauma these kids have experienced, plus the other emotional disabilities, which can lead to negative experiences at school it is difficult to have one answer to that question.

Ms. Weeter also spoke on the Western Day Treatment in Louisville because it is looking at students who are identified early and providing those intensive services. The K-5th grade population are only allowed to stay for one year. Many intensive services are provided and those students are able to transition into the regular educational setting. While there has been interest in other communities in replicating some type of model similar to Western Day that is able to have a mental health focus rather than a punitive focus, there is a limited amount of funds that can be directed toward expanding those types of programs.

Chairman Westerfield thank Dr. Nolan for his very informative presentation.

UPDATE: Dr. Nolan said he was asked specifically the length of stay in the psychiatric hospitals and the number of students who were in that program over the course of a year.

We pulled that information out and we have five programs: Brook KMI in Jefferson, Cumberland Hall Behavior Health in Christian County, Lincoln Trail Behavioral Health in Hardin County, Peace Academy in Jefferson and Valley School in Daviess County. Those that 4,300 students total who came through their doors last year; 268 on December 3 but a total for the year was 4,300. Peace Academy had 2,200 of that 4,300. The average length of stay was 10 days.

Chairman Westerfield then called The Honorable Karen Thomas, Chief Regional District Judge, 16th District and Billy Stover, Program Coordinator, AOC, Family and Juvenile Services to the table to present on Kentucky's Teen Court Program.

Mr. Stover thanked the Chairmen and the council for the opportunity for him and Judge Thomas to talk about something they are very passionate about, which is Teen Court. He thanked Rachel Bingham for the opportunity to work with this program.

Judge Thomas thanked everyone for allowing her to present to the council. She noted that she has ran the Northern Kentucky Teen Court since 1996. Judge Thomas said we do not have enough civic education anymore in Kentucky, and what part of Teen Court's function is a civic system. She noted the function of the justice system is explained through Teen Court. The ideas of dealing with people fairly, restoring justice and helping people get better versus punishment are all a part of what we do in Teen Court.

According to Judge Thomas, Teen Court addresses two different bodies. One is a group of Teen Court members, which have been recruited from the local high schools, including private, public and homeschoolers. She said these kids are usually over achievers and enjoy serving the community.

Bill Stover noted that the program is set up for any kid. Mr. Stover gave an example of a teenager in Shelby County who was not involved in any extracurricular activities and wanted to participate in Teen Court. A year later, he has graduated and he is now considering going to law school because of his experience with Teen Court.

Judge Thomas said Teen Court was a peer driven program. The idea is that I have kids from different walks of life that are enter acting and participating with juvenile offenders. She said that half of her juvenile offenders come from a different socioeconomic group than the kids that are her Teen Court members. That mixture benefits both groups. For the members of the Teen Court it is resume building and a good opportunity for community

service but the other thing to remember about the members of the court is the enter action with local community members, i.e. the Judge, attorneys, CDWs. The benefit to the juvenile defendants is this is a diversion program. Judge Thomas said juvenile defendants have positive peer pressure through a jury of their peers who give them a sentence and the defendants must complete that sentence in order to obtain a diversion.

Judge Thomas said the program has a three percent recidivism rate over a two-year period.

Billy Stover said Northern Kentucky heard 65 cases last year, and that is way above the norm. On average, most sites have 8-12 cases a year.

Billy Stover said the members of Teen Court are trained by local judges and attorneys and that usually happens in the Fall and start hearing cases in November. Mr. Stover recommended the Board travel to Northern Kentucky and watch Teen Court in progress.

Billy Stover said Teen Court starts with a judge and recommended that anyone who didn't have Teen Court in their county to contact him. He noted that even though AOC provides technical assistance, the program is ran by the judge.

Judge Thomas said her Teen Court is ran without any money. She said the members of Teen Court are sworn in as members of justice. A graduation ceremony is conducted for the Teen Court members and the entire community is invited.

Chairman Westerfield asked what kind of cases are heard.

Judge Thomas said everything from a non-violent Class-D felony, status offenders and traffic offenders. The assault of conduct is screened out more carefully. Criminal mischief is also included, theft by unlawful taking, disorderly conducted and a lot of marijuana cases.

Chairman Westerfield asked if it was an offense such as assault or criminal mischief, criminal trespass both have very clearly defined victims that have something lost or harmed. Do those victims have to consent to this process? Do they have the opportunity to say no, I want them in front of the real judge and real court?

Bill Stover said that all the Teen Court cases over the past two or three years, are eligible for diversion. He added that in Teen Court, the defender has to plead guilty. Teen court is a sentencing court only. It is just like real court with opening statements, testimony, closing arguments but then the jury decided the constructive sentencing for that offender. Mr. Stover said as far as the victim, it was like any other case on diversion.

Judge Thomas said if there is damage like a criminal mischief case, the jury could order restitution to the victim.

Judge Thomas said she was unaware if the CDW confer with the victim prior to referring the case to Teen Court. Rachel Bingham said the victim has to be notified and the same process occurs as with the CDW program.

Judge Thomas said the victims are notified and the court knows the amount of the damage in the case of restitution and it can be ordered.

Chairman Westerfield said he is trying to understand this program because he has never had any exposure to this program. He said he was curious procedurally. He pointed out that it sounds as if it is CDW driven in terms of referrals and they have to admit to having committed the crime in order to participate. He wanted to know when counsel came into the process.

Judge Thomas said the offender goes to the CDW where they review the complaint. The CDW looks to see if the offender is diversion eligible. If they are, then the CDW tells the offender they are a perfect candidate for Teen Court. There are other types of diversion programs; Teen Court is only one of many. If this offender fits the criteria, the CDW informed the youth that in order to go to CDW you must pled guilty.

Chairman Westerfield asked Damon Preston how he felt about that.

Bill Stover said that when these types of cases were being sent through the CDW Program, we went through our legal department and we have a form the juvenile will sign.

Chairman Westerfield asked if the form said the youth does not have legal capacity to execute a form.

Rachel Bingham said they have a parent with them at the time.

Judge Thomas said a parent is with the juvenile the entire time, including their time in Teen Court.

Damon Preston said he has never objected to Teen Court because it is a diversion program and does not result in an adjudication of guilt; the sentencing options for Teen Court are much more limited than what would be before the regular courts.

Chairman Westerfield said he was under the impression that it was an adjudication.

Judge Thomas said no it was a pure diversion and a sentencing diversion. Nothing a child says in Teen Court goes anywhere else. It is not held against them, and they are told that in the beginning.

Chairman Westerfield asked if the failure of Teen Court could be used against them. Not just what they say but their conduct or failure to complete the sentence?

Judge Thomas said no. She continued by saying that if the juvenile fails to complete Teen Court and the sentence, they are referred back to the CDW.

Chairman Westerfield said it would still demonstrate, as a failed diversion attempt would it not.

Judge Thomas said it could be and then potentially they would go to the Fair Team to find out why they failed the sentence.

Judge Thomas said they have a “Meet the Defendant” night, where our defense attorneys --the members of Teen Court act as the defense attorney, prosecutors, jurors and clerks. We want the juvenile defendant to meet their attorney. They meet with the Teen Court attorney, along with an adult attorney or a law student and a parent. During that meeting, a parent or youth is uncomfortable to the charge; they are referred back to the CDW.

Billy Stover said the only requirement of Teen Court is to attend five training sessions (Slide 8) which judges, local attorneys and clerks and they are trained in all aspects of Teen Court. He added that the member is trained on constructive sentencing and how to be fair and just when hearing these cases.

Judge Thomas said treatment options are included in her Teen Court due to the rise of marijuana charges. The CDWs have a screening process before the youth comes to Teen Court to ensure there are no mental health issues where serious intervention is needed.

Judge Thomas said when she started Teen Court it was all court deferred. You had a child come all the way through the court system, failed all the diversions, got in front of a judge, found guilty or admitted guilt and then went to Teen Court. She noted the problems with that is the time a parent has to take off work to attend the various meetings. She continued saying she was not getting enough juvenile offenders. She said she had 40 Teen Court members and she could not keep them busy. Judge Thomas said at that point she went to

Rachel Bingham and asked to make Teen Court a true diversion process and the CDW's refer the offender. The numbers went up and the kids received immediate repercussion.

Bill Stover added that once a kid comes into the CDW program and we put them on diversion within a month their case is heard in front of their peers. He continued saying that other than the judge and the parent of the offender, there are no other adults in the courtroom.

Chairman Westerfield asked how consent to keeping confidentiality was obtained and what repercussions are there if it is not kept?

Bill Stover said it goes back to the five training sessions and we continuously tell them confidentiality is what makes the program work. The sixth week, we have a swearing in ceremony. During that ceremony, the Judge calls each kid up one by one and administers the oath. The kids know they cannot even talk to their parents about juveniles who appear in Teen Court.

Judge Thomas said if there are any problems with confidentiality, the member is immediately removed from Teen Court. The parents of the offender and the offender are informed that there has been a problem. Judge Thomas said she had only had that happen one time. She added that the member could have no contact with the offender in or out of school.

Chairman Westerfield said he is concerned. He said a minor does not have the legal capacity to execute a contract or an agreement of any kind. He added that he has no idea what the case law says about being sworn in but a minor is treated very different from an adult.

Judge Thomas said you swear in juveniles to tell the truth all the time. However, Chairman Westerfield said you are putting them under oath to tell a story they know or they believe to be facts related to something they have seen or they lived through versus asking a child to keep a secret about some other kid and what that kid has gone through.

Judge Thomas said she understand his point. However, believes that kids 14-16 can keep their mouths shut. She added that when they are presented the oath, they understand the importance.

Damon Preston said he thought Teen Court was started in 1992, so it had been around for a long time. He asked if the program had been adapted at all in the post Senate Bill 200 landscape. He said he asked for a couple reasons. First, when he was in Juvenile Court referring cases to Teen Court, it was a more formal process where it came to court and the

prosecutor and defense attorney agreed that the case might be a good case for Teen Court. However, we took into account the victims, the seriousness of the offense, and the history of the juvenile. Now, it appears cases are being deferred by the CDW and does not get that level of review. I could see an inappropriate case going to Teen Court, which then would raise serious confidentiality concerns, especially in the world of social media. The second concern he had would be from a defense point of view when it doesn't go through the court, is it harder on the offender to go through Teen Court where he doesn't have an attorney helping him decided whether he should agree to the charges as opposed to the standard of diversion the CDW would be conducting.

Bill Stover said the first thing that happens in a new program is he has a conservation with the Judge, and ask what cases you not want. Our CDWs have that same conservation with the judge and those cases are screened on what cases are appropriate and unappropriated. Due to that process, Mr. Stover said they did not have those issues.

Rachel Bingham said that in addition, they still go through the regular process with the county attorney with the public defense charges and they know that in diversion the can be a referral opportunity. She said that process has not changed because of Senate Bill 200.

Damon Preston asked if the consultation include whether it goes to Teen Court based on the fact pattern.

Judge Thomas said they would say no diversion. She said levels are put into the system of filter to make sure those issues are handle appropriately. She said she understood what Mr. Preston was saying about the formality of the process but to her it was outweighed by the more immediacy of this process with the diversion. She talked about the parent issue and work.

Judge Jones said she had Teen Court before Senate Bill 200 and I have the same issue with long delay and these are kids have gone through the CDW. By the time you are dealing with court kids and not diversion kids, you have kids who have racked up their four diversions and have gone through every option the CDW can give them. Now, they are in court and now you are dealing with a different level of offender and consequences, which are not suitable for this type of program. However, getting them at the earlier end – those first time offenders is much better.

Rachel Bingham said she was taking notes on all these comments and AOC would review their policies. She added that there are several models nationally which have been around for 30 years, which are in the school based arena and community based where they are in

the law enforcement arena and Teen Court. She said she would have AOC's general counsel review this program and address the confidentiality concerns.

Chairman Westerfield thank everyone for coming and presenting.

Chairman Westerfield told the Board to watch for a calendar invite. He could not set September's meeting until he heard back from NCSL about the Florida program. As soon as he has dates, he will get it to you.

He continued by saying if there were any topics which you think need exploring as a group to get them to Chairman Petrie, myself, Matt, Sallie or Jason at DJJ know.

The meeting is adjourned.

DRAFT