

JUVENILE JUSTICE OVERSIGHT COUNCIL

April 5, 2016
Capitol Annex, Room 171

Members Present: Senator Whitney Westerfield; Representative Darryl Owens; Secretary John Tilley, Justice & Public Safety Cabinet (JPSC); Acting Commissioner Wendy Morris, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services (CHFS); Commissioner Adria Johnson, Department for Community Based Services, CHFS; Acting Commissioner LaDonna Koebel, Department for Juvenile Justice (DJJ), JPSC; Rachel Bingham for Laurie Dudgeon, Director, Administrative Office of the Courts (AOC); Christina Weeter, Department of Education; Damon Preston for Ed Monahan, Department of Public Advocacy (DPA); Steven Gold, Henderson County Attorney; and Dr. John Sivley, Clinical Director, LifeSkills, Inc.

Members Absent: Honorable Lisa Jones, Chief District Judge; Paula Stafford, Rowan County Public Schools, and Major Shara Parks, Louisville Metro Police Department

Staff Present: Marlene Mundine

I. Welcome/Call to Order and Approval of Minutes

The meeting was called to order by Senator Westerfield who welcomed Representative Darryl Owens as the new co-chair. Senator Westerfield also welcomed members and guests. He then called for a motion to approve minutes from the January 12th meeting. Minutes were approved as submitted.

II. Presentation: Data on Committed and Probated Youth by County and Race

Senator Westerfield introduced Dr. Greg Finkbonner and John Fitzpatrick, DJJ, to present data on dispositions considering race and ethnicity. Dr. Finkbonner stated that both he and Mr. Fitzpatrick are charged with working on the data and information around SB 200. Their presentation is in response and follow up to questions from a previous meeting. He noted that one of the questions centered on disparities at the initial charge. He commented that the data he reviewed indicated there may be some disparities which appear before court or at arrest. He noted more research will be needed in this area but DJJ does not have access to the arrest data.

The presentation included data regarding statewide demographics compared to total dispositions from January 1, 2016 – February 29, 2016. Also presented was data regarding demographics compared to commitments or youth that are committed to DJJ and placed in a facility out of the home. The data indicates that minority youth are disproportionately represented in relation to the general population. He presented data showing statewide dispositions by race broken down by offense classifications. He noted the data is shown using only the highest charge for each individual even though they may have multiple charges. His observation from the data was that

youth coming into the court system are equally amended but the disparity is happening at the initial charge. Senator Westerfield asked if the data included cases where the charge was amended. Dr. Finkbonner clarified that the data included is the final disposition of the charge after it is amended. Senator Westerfield commented that it appears the more serious the offense, the more likely a minority child is going to be unduly handled and he would like to determine when in the process that occurs. Dr. Finkbonner commented that while he does not have the data, it is possible the minority child is initially charged with a more severe offense. Rachel Bingham, AOC, will provide the data at the complaint stage. Senator Westerfield asked that the information be pulled for the same timeframe with the same offense breakdown to have a comparison.

The statewide data presented included a breakdown of final dispositions by race as well as data for the top ten counties with the most dispositions represented by race. Jefferson County had the highest number of dispositions for black youth. By looking at the breakdown by counties, it was evident where more of the disparities are occurring. In looking at the general population demographics for Jefferson County, 67% of youth are white and 29% are black. However, in dispositions, the data shows 19% of the youth are white while 78% are black. When looking at Jefferson County data by offense classification, the majority of youth fall in the class D felony classification and 83% of those are black, 12% are white. The data for Jefferson County also showed that black youth account for 89% of youth committed, 92% of probated youth probated and 67% of youth receiving judicial discretion.

Representative Owens inquired if these findings were surprising or simply verified what was known prior to looking at the data. Dr. Finkbonner responded that the dispositions jump out as a huge disparity coming from Jefferson County. Representative Owens commented that he assumed this has been occurring for years. He remarked that the question is what to do about it other than study it periodically and look at the data. Dr. Finkbonner agreed that it was necessary to continue looking at the data and also to work together in determining the next steps. Senator Westerfield remarked that while SB 270 is not expected make it thru the legislature this session, it does not stop the agencies from doing the work it would require. Representative Owens noted that in once a youth is in the juvenile system they are more likely to continue. The effort should be on keeping them out of the system and looking at the police departments and schools to address issues.

Secretary Tilley commented that Representative Owens touched on some the issues this task force has worked to address. He noted that while he and Senator Westerfield have met with lobbyists for school interests to address some of the issues, the parties do not always agree. He noted that SB 200, while not directly related to disproportionate minority contact, does address it as part of the overall issue as any decrease in detention does benefit the issue. He stated that schools receiving funds based on average daily attendance needs to be reviewed. He stated that when you have a perverse incentive to put a child in detention that must be eliminated.

Commissioner Koebel noted that the data presented today on final dispositions by race clearly indicates that, since SB 200 has been fully implemented, judicial discretion and probations given to white youth far exceed that given to youth of color and that data should be presented at judicial training. Rep. Owens inquired about CDW's making determinations for judgments at

the intake. Ms. Bingham noted that is not an option available but should be part of the future conversation.

III. Legislative Update

Senator Westerfield gave a brief update on SB 201 which contains updates to SB 200, noting it moved later than it should have. He also expressed frustration that SB 270 regarding disproportionate minority contact was not moving. He noted there were floor amendments filed that required data collection that may not be available without cost but encouraged members to work toward collecting that data. He also mentioned SB 294 regarding juvenile expungement but was not confident of its survival. He stated that SB 40 regarding open court proceedings will only apply to dependency, abuse and neglect dockets as a pilot project. Ms. Bingham stated that her department would be responsible for the study. Senator Westerfield mentioned SB 37 regarding teen sexting and noted under 18 language was added to address concerns regarding a loophole for adults.

IV. Agency Updates

Commissioner Koebel, Department of Juvenile Justice, pointed out the impact of SB 200 on youth placed in YDC's across the state when comparing 2014 data with current data. There has been a 40% reduction of youth placed in out of home YDC placements in just under two years. She stated that when diving deeper into the data and taking out the youth SB 200 was never intended to impact, the declared juvenile sex offenders and youth who had an offense involving a deadly weapon, there is a 63% reduction in youth placed in out of home YDC placements. Senator Westerfield inquired about any corresponding decrease in public safety or outbreak of juvenile criminal activity statewide. Commissioner Koebel responded that they are not aware of any problems. She also noted that youth they are getting now are those that they should have been providing services to all along.

Ms. Bingham, Administrative Office of the Courts, commented on the impact of diversion on staff and provided data that compared the three-month period of January, February and March of 2014 to the same period in 2015. The following increases in new diversions were noted for the following counties: Jefferson County - 34%, Davies County - 24%, Campbell County - 15%, Fayette County - 48%, Boyd County - 37%, Madison/Clark Counties - 8%, and Harrison County - 70%. Ms. Bingham noted that many changes did not start until 2015 and the huge impact is now being seen and felt by staff.

Commissioner Johnson, Department for Community Based Services, provided information on the number of referrals during the last 18 months from FAIR teams. She stated there were a total of 44 referrals with approximately half of those investigated. She noted they are currently taking a deeper look to see why the rest were not investigated. She also states that updates are being done to the TWIST system to better track status offense population to enter and gather information on what judicial determination led to the child's placement in out of home care.

Ms. Weeter, Department of Education, noted that they are seeing a lot of intersection between SB 200 and SB 97, particularly around truancy. They will be hosting a persistence to graduation summit this summer to help schools and districts provide more engaging opportunities for students so they do not become truant and also to address students that are affected by SB 97 that have to come back into the school system.

Commissioner Morris, Department for Behavioral Health Developmental & Intellectual Disabilities, stated that the department has several training and technical assistance activities under way including the system of care academy, training in partnership with AOC on the principles of effective intervention with justice involved youth and partnering with the Crime & Justice Institute to offer a preconference session on the principles of effective intervention and cognitive skills training for treatment providers across the state who work with justice involved youth.

V. Adjourn

The next meeting will be held on Wednesday, May 18th at noon. Senator Westerfield encouraged members to submit any suggested topics for discussion. With no other business to discuss, the meeting was adjourned.