

## JUVENILE JUSTICE OVERSIGHT COUNCIL

September 19, 2016  
Capitol Annex, Room 171

**Members Present:** Senator Whitney Westerfield; Jessie Halladay for 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; Commissioner Carey Cockerell, Department of Juvenile Justice (DJJ), JPSC; Rachel Bingham for Laurie Dudgeon, Director, Administrative Office of the Courts (AOC); Christina Weeter, Department of Education; Ed Monahan, Department of Public Advocacy (DPA); Major Shara Parks, Louisville Metro Police Department; Steven Gold, Henderson County Attorney; and Dr. John Sivley, LifeSkills, Inc.

**Members Absent:** Representative Darryl Owens, Judge Lisa Jones and Paula Stafford

**Staff Present:** Marlene Mundine

### I. Welcome/Call to Order and Approval of Minutes

The meeting was called to order by Senator Westerfield who welcomed members and guests and introduced the new commissioner of the Department of Juvenile Justice, Carey Cockerell. Senator Westerfield then called for a motion to approve the August 16<sup>th</sup> meeting minutes. The minutes were approved as submitted.

### II. Adjusting Racial Disparities in Kentucky

Pastor Edward Palmer, SEJAY, Kristie Stutler, DJJ, and Jackie Stamps, DCBS, presented information regarding statewide DMC trends and made recommendations to address those issues. (Presentation available upon request.) Pastor Palmer stated that work has begun to draft legislation, which includes modifications to SB 270 from the previous session. Those modifications include expanding data collection to include additional agencies and requiring all agencies to complete racial and ethnic equity assessment on policies and procedures. As assessments are completed, action steps would be required to address any identified inequities. Also suggested was the assessment of evidence-based practices for efficacy with minority children.

Pastor Palmer also made recommendations for modifications to SB200 which included expanding training requirements to those additional agencies included in SB 270 and offering financial incentives to build additional resources within communities. Additional recommended modifications included removing the weapons exception language, increasing the number of required prior adjudications before youth can be committed to DJJ, increasing the prohibitive language to apply to Class C felony offenses and expanding the charges that are diversion eligible.

Senator Westerfield inquired about the elimination of the weapons exception and how to determine the type of weapon involved, firearm or other type of deadly weapon. Ms. Stutler stated that data is not collected but they could go back and look at cases that involved a firearm. Ms. Stutler

provided data on probation and commitment by race and expressed the importance of modifying SB 200 to clearly state that reinvestment dollars realized from a reduction in DJJ population must remain within the department's budget for community based programs.

Pastor Palmer recommended mandatory training on implicit bias, disproportionality, race, cultural competence and inequitable policy/practice identification for all agencies recommended for inclusion in SB 270. He noted that some of this training is currently in development and should also be required to be included in policies and procedures. Pastor Palmer also recommended, in the absence of passing SB270, mandating that all agencies submit data to the Juvenile Justice Advisory Board and work collaboratively to develop agency specific plans to address and reduce disparities where possible, without requiring numerical standards and without jeopardizing public safety.

Pastor Palmer recommended requiring racial impact statements be added to all legislation. Senator Westerfield noted that currently LRC staff prepares impact statements and inquired about who would be responsible for preparing the statements. Pastor Palmer stated that the agencies would be in the best position to prepare the statements. He noted there are other states that have done this that can be reviewed, such as Iowa. Other suggestions included eliminating the court's ability to detain a youth for a status offense and eliminating the court's ability to detain a youth for a status offense for violation of a valid court order. If VCO is not eliminated, eliminate the use of it when there is an underlying charge of truancy. Statutory changes to definitions of disorderly conduct, abuse of a teacher, and assault 3<sup>rd</sup> were recommended so that these offenses are not detention or DJJ commitment eligible and are mandated for referral to diversion. Mr. Monahan inquired about recommendations on where to house youth in place of being detained. Ms. Stutler responded that alternatives to detention are used in places where they are available such as shelters but shelter capacity would need to be built. Data was provided on school complaints by race. It was suggested that the youthful offender statute be revised to only apply to offenses against persons. Youthful offender data was provided by race. A correction of unintended consequence of SB200 was suggested to support changes to statutes related to kinship care to expand options available to youth who have completed out of home treatment with DJJ who are now being placed with DCBS due to abuse, neglect, or dependency issues. Data was provided showing a comparison of Jefferson County to statewide data by race. The statewide assessment on disproportionate minority contact was distributed to council members along with a list of 29 recommendations.

Ms. Stamps presented information on disproportionality in the child welfare system. She noted that disproportionality can be seen at every decision point in the system including intake, substantiation, removal and exits from the system thru reunification, adoption, exits to relatives and emancipation. Data was provided in each area. Ms. Stamps noted that risk factors are not accurately identified for African American children who are least likely to have substance abuse and mental health identified and most likely to have family violence identified as a risk factor. This is a training issue for staff completing assessments. Disproportionality can be seen in out of home placements and length of stay as well. Ms. Bingham asked if racial impact statements would have been beneficial prior to kinship care being eliminated. Ms. Stamps stated her opinion that it would have been beneficial, as it has impacted families of color with issues of poverty. Ms. Bingham suggested the state interagency council's standing committee of disproportionate disparities for the location for racial impact statements. Ms. Bingham also inquired about alternative placements. Ms. Stutler responded about the need for incentives and funding for communities to develop those alternatives. Ms. Bingham stressed the importance of focusing on

the need for resources in the communities. Mr. Gold inquired about the removal of weapons offenses and how that would impact DMC. Ms. Stutler noted that looking at youth that are in out of home placement on a public offense as of June 1<sup>st</sup>, 23% were misdemeanor offenders and about 50% of those were youth that the weapons offense applied. Ms. Weeter commented about the need for data on poverty in relation to the data provided, as it could be beneficial in determining needs for community-based resources.

### **III. Jefferson County Juvenile Justice Advisory Committee (JJAC)**

Libby Mills and Maria Gurren presented information on the Jefferson County JJAC and its efforts to address disproportionate minority contact. (Presentation available upon request.) Ms. Gurren noted that the DMC Advisory Board first met in 2003 and worked in collaboration with the Burns Institute to address disproportionality in secure detention. The DMC Advisory Board became the JDAI/DMC Advisory Committee in 2013 and then reorganized in 2015 to become the Juvenile Justice Advisory Committee, which is a subcommittee of Louisville Metro Criminal Justice Commission.

Ms. Gurren noted previous efforts to address disproportionality in detention included field release, detention risk assessment instrument and enhanced continuum of alternatives to detention. Field release allows law enforcement to transport youth to a YMCA Safe Place when parents or guardians cannot be reached. She noted that this program was first implemented in 2005 with federal funding, expanded countywide in 2007 and is now sustained by Louisville Metro Youth Detention Services. Data provided indicates the majority served by this program are black youth. Ms. Gurren noted the detention risk assessment instrument was fully implemented in 2013 and an analysis is currently being conducted. She stated that a pilot of the home incarceration program began in 2006 and was expanded in 2009. The current alternatives to detention include home supervision program with 50 slots, home incarceration program with 60 slots and an alternative placement shelter with 12 beds. The YMCA Safe Place serves up to 75 youth per year.

Ms. Gurren noted that the 2014 Statewide DMC Assessment indicated, for Jefferson County specifically, disproportionality at three points: arrest, findings of delinquency and transfer to adult court. She noted that the 2016 JDAI Detention Utilization Study indicated a significant disparity in admissions of black youth and that the offense history was a major factor in detention decisions.

Ms. Mills stated that previously the efforts had been focused on detention but began to look at the entire system in 2015. A review of the 2014 data indicated black youth enter the juvenile justice system in larger numbers at an earlier age, black youth are charged more frequently and receive more charges than white youth, and black youth remain in the system longer. Ms. Mills stated that the civil citation pilot project is being used at the point of arrest to divert low level, misdemeanor offenders from the court system without a criminal charge. Through this pilot, youth are held accountable but also referred for assessment to be connected with appropriate services. She noted this program has been implemented in Florida with success in reducing DMC at arrest. Ms. Mills stated that Louisville Metro Police Department is sending officers to training in Connecticut for effective police interactions with youth. The training will be incorporated into their annual training and training for new officers.

Ms. Mills provided data that indicated their admissions to secure detention are significantly disproportionate but pointed out that the number of black females is equal to the number of white

males and stressed the need to also look at gender impact. Ms. Mills also commented on the efforts for better data collection. She also spoke about Restorative Justice Louisville, a diversion option implemented to target youth of color, which receives referrals from the CDW program and district court. Ms. Mills stated the JJAC Data Subcommittee is working to establish data sharing processes across agencies to facilitate analysis of the local system. She noted they are partnering with Jefferson County RIAC to identify services at each decision point in the system and to identify gaps. She commented on the difficulty getting services for youth with behavioral issues and the lack of services in specific areas. Ms. Mills also noted that SEJAY is supporting a local DMC assessment. She stated that accessing usable data in a timely manner is a challenge and recommended making data accessible to local communities in a user friendly format along with providing access to analysis to assist with developing and updating plans to address DMC.

#### **IV. Data on KY Public Defender Juvenile Clients and Cases**

Damon Preston, Deputy Public Advocate, presented data on DPA juvenile cases. (Presentation available upon request.) Mr. Preston stated that all statistics provided are from the Department of Public Advocacy and does not include private attorney cases, Jefferson County cases or validated disposition information.

Mr. Preston stated that data indicates African Americans are overrepresented within DPA's juvenile clientele and that has increased since the passage of SB200 although the overall number of cases is decreasing. Data was provided regarding public offenses and status offenses by race. Status offenses dropped from being 21% of the cases in FY14 to 17% in FY16. Additionally, the following data was presented: race of juvenile clients charged with misdemeanor as most serious offense indicated 75% white and 20% African American; race of juvenile clients charged with felony indicated 68% white and 26% African American; race of juvenile clients charged with class D felony as most serious charge indicates 72% white and 23% African American; race of juvenile clients charged with class C felony as most serious charge indicates 64% white and 31% African American; race of juvenile clients charged with class B felony as most serious charge indicates 52% white and 40% African American. In a total of 43 cases of juveniles clients charged with a class A or capital felony as most serious charge, 91% were white and 5% were African American. Mr. Preston noted that there is very little discretion in a class A felony case. Taking the capitol offenses out, the percentage of African American clients increases with every level of offense.

An overview of the juvenile caseload by charges was provided along with a breakdown of percentages by race. Data was provided regarding the most frequently charged class B offenses, juveniles clients charged with robbery 1<sup>st</sup>, robbery 2<sup>nd</sup>, TBUT class D felony and misdemeanor and adult clients charged with robbery 1<sup>st</sup>. Mr. Preston also presented data regarding youthful offenders charged and transferred.

#### **V. Agency Recommendations on Disproportionate Minority Contact**

Senator Westerfield noted that Mr. Monahan, DPA, submitted written recommendations to the Council to address disproportionate minority contact.

Commissioner Morris, DBHDID, indicated that data analysis is needed to look for disparities in the clients that they are serving thru the community mental health centers. She also noted the department does not currently collect data that would designate youth as juvenile justice involved

and that may be a data point to add. She stated they also plan to look at changes in contract language to make justice involved youth a priority population and to address disparities. She also commented on training issues with front line workers.

Commissioner Johnson, DCBS, noted they are also working on training issues. She also expressed the importance of hearing from youth of their experiences.

Ms. Bingham, AOC, encouraged the council to engage the judiciary early on regarding recommendations that impact them and indicated that AOC will also have a list of recommendations.

Ms. Weeter commented that it is important to recognize that there are a variety of groups in the field of education that have a role and to consider the distinctions to make clear recommendations to the appropriate groups. She commented on data reporting and the need for training on data input at the local level to ensure accurate data reporting at the state level.

Ms. Halladay, JPSC, commented on efforts to share data between agencies. Senator Westerfield inquired about any issues in the data collection efforts being addressed with CJI. Ms. Bingham commented that until requirements come thru the legislature with financial support, there are still two different systems trying to work together to share the data.

Mr. Gold expressed the importance of having the data at the local level for local policy makers to see the impact at their community level and identity issues that can be addressed on a local level. He also commented on the need for training on implicit bias within the judicial system.

Dr. Sivley stated that increasing judicial discretion toward diversion programs and reducing the disparity of charges when overcharging occurs would be of assistance.

Mr. Monahan, DPA, noted that the recommendations provided are based on data presented which must have a robust response.

Major Parks, LMPD, noted that with respect to law enforcement, the biggest thing is education and training. She noted that LMPD has included implicit bias training in their training, which should be continued annually and also required for SRO's statewide. She noted that the civil citation program will be a vital change for Jefferson County and an opportunity to keep youth out of the system.

Commissioner Cockerell, DJJ, expressed his support for the recommendations provided by Pastor Palmer and Ms. Stutler. He commented on the need to strengthen resources within communities. He stated that alternatives to detention and placement are not necessarily brick and mortar and that it is much more efficient to do the work within the communities and within the families. He noted that while he was encouraged to see the decrease in commitments to DJJ since the implementation of SB 200, it is of concern that the state has not solidified the steps to save and reinvest the resources in the communities.

## **VI. Adjourn**

The next meeting will be held on Monday, October 24<sup>th</sup> at 1PM. With no other business to discuss, the meeting was adjourned.