

JUVENILE JUSTICE OVERSIGHT COUNCIL

September 4, 2014

Capitol Building, Room 327

Members Present: Senator Whitney Westerfield; Representative John Tilley; Deputy Secretary Vickie Wise, designee for Secretary J. Michael Brown, Justice & Public Safety Cabinet (JPSC); Commissioner Mary Begley, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services (CHFS); Commissioner Teresa James, Department for Community Based Services, CHFS; Acting Commissioner Bob Hayter, Department for Juvenile Justice, JPSC; David Wickersham, designee for Commissioner Terry Holliday, Department of Education, Education and Workforce Development Cabinet (EWDC); Laurie Dudgeon, Director, Administrative Office of the Courts (AOC); Ed Monahan, Department of Public Advocacy (DPA); Paula Stafford, Rowan County Schools; Honorable Lisa Jones, Chief District Judge; Lieutenant Shara Parks, Louisville Metro Police Department; Steven Gold, Henderson County Attorney; Dr. John Sivley, Clinical Director, LifeSkills, Inc.

Members Absent: N/A

Staff Present: Yvonne Board and Marlene Mundine.

I. Welcome/Call to Order

The meeting was called to order by Senator Westerfield who welcomed everyone to the first meeting of the Juvenile Justice Oversight Council. He noted that this council was created by and to oversee the implementation of SB 200 and to identify and address issues including those that were not included in the bill but may be addressed in the future. He stated that the original task force members along with additional members are included on the council as all those present have a stake in the decisions and policies that affect juvenile justice in Kentucky.

II. Introduction of Council Members

Senator Westerfield asked council members to introduce themselves, noting if they were serving as a designee for a council member. Deputy Secretary Vickie Wise was present as a designee for Secretary J. Michael Brown and Mr. David Wickersham was present as a designee for Commissioner Terry Holliday.

III. Senate Bill 200 Overview

Senator Westerfield stated that SB 200 is aimed at getting better outcomes for children while being better stewards of taxpayer dollars in the process. He remarked that the bill will create a way to get children plugged into resources they need to address their specific issues timely while at a lower cost to the taxpayer. He noted while this will hopefully help them avoid an appearance in court either as a juvenile or as an adult later on. He also noted the bill addresses

both status offenses and public offenses. He expressed the need to meet on a regular basis to discuss what is working and what issues may need to be addressed. Senator Westerfield thanked council members for their work thus far in making SB 200 happen as well as their work going forward.

IV. Presentations

A. Administrative Office of the Courts – Laurie Dudgeon, Director

Ms. Dudgeon reported to the Council detailing AOC's progress in implementing SB 200. A copy of the report and attachments are available upon request. Senator Westerfield inquired about the next priority for AOC. Ms. Dudgeon responded that AOC is working in different groups with partner agencies. She noted they are working on memorandums of understanding. They are also working to define how to share data and also noted they are working on the best way to give DJJ access to internal case data as well as DCBS. She noted the next steps will be to continue to train in the pilot sites. She stated that Georgetown University is going to do diversion training for their staff and the Family Accountability, Intervention and Response (FAIR) teams as well.

B. Department of Behavioral Health Development, CHFS – Commissioner Mary Begley

Commissioner Begley reported to the Council regarding her agency's progress in implementing SB 200. A copy of the presentation is available upon request. Senator Westerfield asked if the agency had experienced any issues thus far. Commissioner Begley noted there were no obstacles other than time and resources. She commented on the need for more mental health providers in communities. Senator Westerfield inquired if the providers were overwhelmed with the amount of potential clients. Commissioner Begley responded that it depends on where you are and with whom you speak.

Senator Westerfield asked what the next steps are for the department. Commissioner Begley stated that they hope to get better trained evidence-based practice providers throughout the state that can serve children that have specialized needs thru CHFS and DJJ rather than having two separate behavioral health providers. She noted they are working with DJJ to have Medicaid cover services for their children that are not incarcerated as allowed. Dr. Sivley commented that the additional services Behavioral Health is now able to access through Medicaid has been immensely helpful. He expressed his concern regarding the lack of inclusion of therapeutic foster care as a Medicaid covered service as that results in children having to be referred and placed in the state's custody in order to receive that level of service or it relies on the individual managed care company to choose whether or not to cover the service. He inquired if there was any plan to address this situation. Commissioner Begley deferred to Commissioner James who described a current situation where they are

working with a Medicaid provider to address the needs of a youth rather than the child being placed with DJJ or DCBS. She stated DCBS is looking at trying to unbundle rates for therapeutic foster care and that she believes there is negotiation capacity for providers to get a contractual rate now with managed care companies.

C. Department for Community Based Services, CHFS – Commissioner Teresa James

Commissioner James gave an overview to the Council regarding DCBS's progress in implementing SB 200. A copy of the overview is available upon request. Senator Westerfield inquired if DCBS has settled on using SSN's as the identifier for tracking. Commissioner James responded they will need to work longer on that issue as there are federal requirements regarding information sharing. Senator Westerfield inquired if council members had a timetable for when they will have decided what identifier will be used for tracking as the deadline is July 15th. Ms. Dudgeon commented about sharing data during the pilot phase and noted they are trying to be able to do so as quickly as possible. Ms. Rachel Bingham, AOC, remarked that they have some common identifiers that they are using to work with DJJ currently. She noted there has already been some data sharing with DCBS for years with the TWIST system. Commissioner Hayter noted there are challenges in determining a common identifier.

Senator Westerfield inquired about any issues or immediate goals for DCBS. Commissioner James noted that access and early intervention are where DCBS is trying to move and working collaboratively with community health to enhance services delivery as well as training with school staff. Westerfield inquired about rural areas and the resources available. Commissioner James noted that the managed care contract clearly outlines that it is for 120 counties but there are still some barriers they are working to address. Ms. Dudgeon noted AOC had a rural jurisdiction with a community correctional grant for a SMART program under HB 463 and they received no responses to the Request for Proposals.

D. Department of Education, EDWC – David Wickersham

Mr. Wickersham introduced Ms. Christina Weeter who gave a presentation regarding the Department of Education's role in implementing SB 200. A copy of the presentation is available upon request. Mr. Wickersham noted his department will have the data collection in place in a month which allows time to train districts on the way the collection needs to take place. He noted the issue regarding the lack of definition of noncriminal misconduct may or may not present a problem with complying with SB 200 as most of the elements already captured most likely cover everything to be collected. However, they will not be certain until the information begins to come in from the districts. He noted that serious incident has been defined for some time. He also noted that the student disciplinary guideline document from April 2003 is perceived as the skeleton of student disciplinary issues. He stated that due to the nature of local control of

disciplinary decisions in Kentucky, it will put the department in a difficult position to be able to dictate exactly what that needs to look like county by county. Therefore, it may be that a very modest revision of the basic guidelines will be necessary but the districts are beginning to look at modifying local policies. He noted they do not want to spend resources amending the regulation if local districts are able to capture what is needed already.

Ms. Dudgeon inquired if the student id's are the primary identifier for every student in the Commonwealth or is there another number. Mr. Wickersham responded that they are still using that as the primary identifier. Ms. Dudgeon asked if that is cross-referenced with SSN's. Mr. Wickersham stated that he did not believe they do so at this time. Senator Westerfield inquired about agencies collecting similar common data. Ms. Dudgeon responded that agencies are on some level collecting something that the other needs and they are trying to identify the aggregate data they need to share. Ms. Weeter noted that school districts are not required to collect a SSN; however, high school students participating in the KEES program are required to provide that information. She noted that many years ago it was required to collect the SSN for enroll in Kentucky. Ms. Dudgeon noted that even though we do not have the SSN on every child, it is the most common identifier between the agencies. Senator Westerfield stated that apart from training this is a threshold issue that needs to be addressed sooner rather than later. Ms. Dudgeon stated that even though not required, AOC will start collecting SSN's. She noted that it does not have to be the SSN if someone has a better suggestion. Commissioner Begley noted that from her experience working with KASPER, parents will push back on giving their child's SSN which could be problematic. Ms. Dudgeon noted that is a common identifier once someone becomes an adult. Mr. Wickersham remarked that there are other states that have data sharing that do not use the SSN as the common identifier such as Massachusetts. Representative Tilley acknowledged the hesitation to give SSN's but inquired as to what other common denominator is available. He also commented that Massachusetts is admittedly one of the worst states in the country at addressing juvenile justice issues and does not want to use Massachusetts as an example to aspire to in this particular field. Ms. Dudgeon questioned why the SSN should not be used as the common identifier. Ms. Paula Stafford remarked that it stems from public schools being required to enroll every child that comes in and there are a number of people in the country who are not citizens and do not have SSN's. Senator Westerfield suggested that the SSN could be used for those available and to identify a backup option for those that are not. Ms. Dudgeon indicated that option had been discussed and she noted they identified that there is a small percentage of youth who do not have SSN's in all of our systems.

E. Department of Juvenile Justice, JPSC – Acting Commissioner Bob Hayter

Commissioner Hayter introduced Kristie Stutler who gave a presentation regarding DJJ's progress in implementing SB 200. A copy of the presentation is

available upon request. Ms. Stutler noted an issue with children returning back to the community not being able to get connected to resources in a timely manner due to lack of funding. She explained that when children are placed in out of home care, their Medicaid coverage is terminated and upon release must reapply for coverage which can take up to 30 days. Commissioner James commented that DCBS can assist with this process and suggested setting up a meeting to discuss. Mr. Monahan noted that twelve or more states have a provision to only suspend rather than terminate services so that there is not a requirement to reapply upon release. Senator Westerfield asked how they were able to do so and Mr. Monahan inquired about what it would take for Kentucky to move from termination to the suspension. He noted this issue applies to adults as well as juveniles. Commissioner Hayter responded that they have discussed this possible solution and is working with DCBS. Ms. Stutler noted that she believed it was a federal issue and Commissioner James believed so as well and suggested meeting with Medicaid to discuss. Mr. Monahan stated that he would like to be involved in the meeting as well. Senator Westerfield noted to include Mr. Monahan.

Dr. Sivley asked for a copy of the assessment tool from DJJ. Ms. Stutler responded that they could provide that once it is ready to pilot. Commissioner Begley noted she would like to have a copy as well. Mr. Gold noted the bill required both AOC and DJJ to have validated needs and risk assessments and inquired if there was a reason that those are not going to be the same. Ms. Dudgeon responded that they are different types of tools from her understanding. Ms. Stutler remarked that there were numerous discussions about the issue before making the decision based on different needs of the two agencies. She noted that AOC is using the GAIN Q3 and DJJ did not feel like it could meet what they needed to decide, for example, placement of the child. She explained that have discussed how they can use the information from AOC's assessment as well. Mr. Gold stated that as a prosecutor that will be presented with each of these assessments, he needs understand the difference in assessments to determine if a child poses a risk to public safety. Ms. Dudgeon noted that everyone on FAIR teams will receive training and have exposure to the risk and needs assessment at that level and there will be a thorough understanding of the recommendations. Ms. Stutler noted there would be training for the judges and prosecutors at three pilot sites. Mr. Monahan inquired about the inclusion of public defenders as well and Ms. Stutler agreed. Senator Westerfield asked to include DPA and prosecutors in the conversation about the assessment tool so that they are clear regarding the distinction between the different tools.

Judge Jones noted a group of judges has met to discuss SB 200 and have inquired if they are required to do a risk and needs assessment for every case, particularly for first time offenders. Commissioner Hayter noted the bill says specifically every child will go through the assessment but there may be no need in some cases. Senator Westerfield agreed that there could be an exception in some cases. Ms. Dudgeon noted some cases should never come before the judge. Judge Jones agreed that if the FAIR teams do what is anticipated, the low level, low risks are

never going to come in front of judges. Senator Westerfield noted to be aware of that going forward as it may need to be changed.

V. Next Steps

Senator Westerfield noted the following key issues to be addressed:

- A.** The need to determine the data collection common denominator.
- B.** The suspension of the medical card versus termination. Commissioner Begley noted that currently Medicaid does terminate but they are working to get them suspended and will make that a priority. Mr. Monahan noted the costs savings to the Commonwealth that will be achieved by this step. Representative Tilley also noted this has greater applicability as it applies not only to juveniles but adults needing treatment as well.

VI. Next Meeting

Senator Westerfield inquired about the need for a meeting to report back on these issues prior to making the report in November. He suggested meeting to have the issue of the data collection identifier addressed. Ms. Dudgeon responded that AOC will be collecting SSN's that will be in their case management systems. Mr. Monahan suggested having another meeting prior to reporting. Representative Tilley stated that he would encourage the council to meet as often as possible to keep the momentum going. Senator Westerfield indicated the council will meet the first or second week of October. He noted that members would be polled by email regarding available dates for the next meeting.

VII. Adjourn

With no further business to discuss, the meeting was adjourned.