

JUVENILE JUSTICE OVERSIGHT COUNCIL

October 8, 2014

Capitol Building, Room 327

Members Present: Senator Whitney Westerfield; Secretary J. Michael Brown, Justice & Public Safety Cabinet (JPSC); Vestena Robbins for 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 (DJJ), 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 Kenny Profitt for Honorable Lisa Jones, Chief District Judge; Lieutenant Shara Parks, Louisville Metro Police Department; Herb McKee for Steven Gold, Henderson County Attorney; Dr. John Sivley, Clinical Director, LifeSkills, Inc.

Members Absent: Representative John Tilley

Staff Present: Yvonne Board and Marlene Mundine.

I. Welcome/Call to Order and Approval of Minutes

The meeting was called to order by Senator Westerfield. A motion was made and seconded; the minutes were approved as submitted.

II. Updates

A. Administrative Office of the Courts

Ms. Dudgeon gave an update on AOC's progress in implementing SB 200. (A copy of the updated report is available upon request.) Ms. Dudgeon then introduced Judge Kenny Profitt, attending for Judge Lisa Jones, and asked him to speak on the progress of his pilot site.

Judge Profitt began by explaining that his area includes three very rural districts in Eastern Kentucky - Powell, Wolfe and Breathitt Counties. He pointed out that there are two teams, one for Wolfe and Breathitt and one for Powell County. He noted that they have had community partners meetings and one thing that came out in those meetings was that the Powell County area has more services available collectively than previously realized. He commented that his understanding is that the court designated worker (CDW) will be responsible for keeping a list of those services. He remarked that over the years DCBS has attempted to keep lists of those but it tends to be out of date; therefore,

having the court designated worker keeping those up to date under the new legislation is a positive thing.

Senator Westerfield expressed that he would like to hear an update from Judge Proffitt moving forward in terms of how the rollout is happening. He noted that one of the biggest concerns has been how rural counties will deal with some of the requirements of SB 200 as they may not have the resources that are available in other counties.

Ms. Dudgeon stated that AOC would be holding a training session in Frankfort for FAIR teams and court designated workers in December and welcomed the attendance of interested council members.

Senator Westerfield inquired if there was a timeframe for when the MOU would be in place with the DJJ. Commissioner Hayter remarked that he had signed a draft agreement that morning. Ms. Dudgeon commented that they should be within a week or so of having the MOU in place. Senator Westerfield also inquired about when trainings would be complete. Ms. Dudgeon responded that the detailed orientations should be complete by the end of the year and that all the pilot sites would be hearing cases by that point as well.

B. Department of Juvenile Justice

Commissioner Hayter noted that a draft of the KY Risk and Criminogenic Needs Assessment had been distributed to the council members and asked Kristie Stutler to come forward to assist in addressing any questions. Ms. Stutler began by clarifying the response to a question from the last meeting regarding the types of assessments that are done on children and why DJJ and AOC are using different assessment tools. She noted that after the last meeting, DJJ and AOC collaborated on putting together a document to explain and pull together the research that shows why at different points of contact different risk assessments are needed and what those tools are used for as well. She stated that this has been completed and will be sent out this week. She noted that the risk screening instrument that AOC is doing thru the CDW's office is a detention risk screening instrument which is designed with specific purposes in mind, to detain or not to detain based on the risk to the community and the youth's flight risk. She explained another purpose is to try to reduce the number of youth who go to secured detention who could be placed in a detention alternative placement. She explained that the risk assessment created by DJJ includes need as is required by SB 200. She noted that criminogenic need is different from treatment need and that when the court is looking at decisions to be made regarding disposition and best interest of youth and what risk the youth poses, they must look at static factors as well as criminogenic needs or dynamic factors. She explained that a static factor is, for example, the age of first offense, something that never changes. She noted that a dynamic factor or criminogenic need is something where changes can be made to actually reduce risks such as substance abuse which is a predictive factor for future criminal behavior. She explained that when the assessment was created, both were included as that gives the court the information they need. She further explained that DJJ separated out the treatment need piece so that the

risk and criminogenic need assessment will be done prior to disposition and the treatment needs assessment will be completed at the point where they are probated, committed or sentenced to DJJ. She noted that there are youth in the system that are very low risk and very high treatment need.

Mr. Monahan questioned if the judge would benefit from having the treatment need before disposition. Ms. Stutler replied not necessarily as the youth would go through preliminary intake and AOC will do the GAIN SS which will tell you if there are other assessments that need to happen with the youth such as any kind of mental health need, etc. She noted that if they score high on the GAIN SS, they will be transferred over to the court designated specialist and the FAIR team where they will then get the GAIN Q3. She clarified that youth will have assessments but DJJ will not do their needs assessment until they are responsible for making sure that the treatment happens which would occur once they are probated, committed or sentenced to the department. She noted that DJJ had to determine how youth have been caught in their net and part of the issue is that they have expanded that net to look at everything, for example, adding conditions for probation that include youth having a job or following parents' rules which are not public safety, justice or legal issues. She remarked that is how the department has gotten youth that stayed on supervision and have been caught up in the system for long periods of time.

Ms. Stutler explained that DJJ created their own assessment tool rather than using the current Youth Level of Service/Case Management Inventory (YLS) as it would need to be validated and there were huge cost factors involved in doing so due to the language of the SB 200 requirement to have the assessment completed prior to disposition. She explained this required the assessment to be done much more quickly and the YLS is approximately a fifty minute instrument. She noted the other issue is that due to the requirement of completion prior to disposition, the number of youth requiring assessment increased from approximately 1,300 to 6,000. She explained that DJJ would have needed to increase staff to meet that mandate and that would have been a cost as well. She noted this tool was patterned after Georgia and Missouri and made appropriate changes to meet the requirements of SB 200.

Ms. Vestena Robbins, designee for Commissioner Mary Begley, inquired about a validity study with the YLS data. Ms. Stutler stated that DJJ has eight pilot sites where their staff is also assessing with the YLS when a pre-disposition investigation (PDI) is ordered and using it to score kids that were never scored before and will compare that data. She pointed out that they have actually gone back on done that with a group and have found that in 59% of cases the YLS score and the new risk score were fairly consistent. She noted that they do expect that they will need to change some of the weightings and move some of the scores around in order to get the best predictive scale for the court.

Senator Westerfield inquired about who would do the validation. Ms. Stutler responded that funding is an issue as one estimate was \$100,000. She stated that PEW is trying to connect the department with resources so that perhaps a PHD student could do the validation as part of their dissertation.

Dr. Sivley communicated that he used the assessment to score ten clients and he was in agreement with the scale 90% of the time. He did note that he was concerned that the assessment still fails to address individual characterological aspects of the individual that will impact their overall risk and is noted that perhaps that is something this will take place further down the road when it gets to a more clinical assessment. Ms. Stutler commented that they do address that in needs assessment but not when determining risk as they felt like it was very subjective for people to be making that decision. She stated it was decided that risk determination was not the appropriate place to address that but there was lengthy discussion about it. Dr. Sivley agreed that it is subjective but should be included. He also commented that people should not use a risk assessment to predict behavior as they do not do that. He stated there is a difference between predicting someone's behavior and identifying risk factors.

Judge Profitt commented that when he read thru the assessment, he noted there was not much accounting for the family and family support. Ms. Stutler noted that information is in treatment need as lack of family support does not necessarily increase a child's risk. Commissioner Hayter remarked that this document is being tested and as information is identified, changes can be made.

C. Department of Education. EDWC

Mr. Wickersham informed the council that the updates to the campus data system which will allow the capture of incidents involving court designated workers are due to go into effect this evening. He also noted that he will be continuing to serve on the Juvenile Justice Advisory Board which will give some continuity between the two groups.

D. Department of Public Advocacy, Department for Community Based Services, CHFS, & Department of Juvenile Justice – Update on Medical Termination vs. Suspension

Commissioner James remarked that DCBS has been working on this issue a period of time as it relates to adult offenders. She explained that in December 2015, DCBS will go to one integrated system that will encompass all services including food stamps, child care and Medicaid. She noted that as a part of that, in the interim for DJJ youth coming in and out of the system, DCBS may be able to offer a designated employee to address the needs of those youth and have a three day turn around for Medicaid services. Senator Westerfield inquired about the status on the same issue for adults. Commissioner James responded that they are currently working on the hospitalization issues and some other pieces to make that happen. She commented that on the adult side, the Department of Corrections needs to be communicating with Medicaid.

E. Behavioral Health Developmental and Intellectual Disabilities, CHFS

Ms. Vestena Robbins, CHFS, commented that the most explicit role for her department in SB 200 is the interface between the regional interagency councils and the FAIR teams. She noted the state interagency council administrator and our regional interagency council policy advisor have attended as many community partner meetings as possible and interfacing with those team members so that they understand the expectations. She noted they are still determining who will serve on FAIR teams but it is being well received. She noted the enhancement of community based alternatives and making sure they are providing evidence based practices and they have several initiatives in place that are supporting providers in utilizing evidence based treatments, particularly in substance abuse treatments. She stated the department has a school based screening initiative and they are working with DCBS to do evidence based screening, assessment and treatment for youth in that system. She noted they have two new grants, a healthy transitions grant that will focus on better services for transition age youth as well as a newly awarded suicide prevention grant.

F. Discussion of Universal Identification Component

Senator Westerfield noted that AOC is moving forward with collecting social security numbers. He stated that the issue must be addressed to have everyone on the same page. He commented that if some are not collecting the SSN, even in situations where it does not exist, there must be another identifier. He inquired about the progress made since the previous meeting. Commissioner James remarked that she does not have a SSN on every child. Ms. Dudgeon commented that there may be 75-80% with SSN's but multiple identifiers are needed to address the remaining. Mr. Wickersham communicated that it cannot be asked for at the time of school enrollment due to federal case law. Senator Westerfield asked if there was any instance in which they are permitted to ask for the SSN. Ms. Stafford responded that they can ask at the secondary level if students are interested in KEYS money as that is tied to the SSN. She also stated that most high school students do give the information. Ms. Dudgeon commented that she previously thought the prohibition from requiring SSN's was based on a federal regulation but inquired if it was actually a case from the 1960's. Mr. Wickersham responded that there is a 1982 case that addresses it but there is also a statute. Ms. Dudgeon asked for the case citation and Mr. Wickersham responded that he would send the information.

Senator Westerfield inquired about the secondary plan in the absence of a SSN. Ms. Dudgeon stated that AOC will use the date of birth in absence of a SSN as well as name, address and any other identifiers available as they frequently have to do for background checks. Senator Westerfield asked if everyone is collecting all of those pieces of information and asked if the date of birth is sufficient. Commissioner Hayter stated that it seems to be the only answer as there is not any one consistent identifier. Ms. Dudgeon remarked that she was asking other agencies to see if they had any prohibitions because if the SSN is the most accurate identifier to connect, it can be used when available and then use multiple others when necessary. She noted that DJJ does collect the parents' SSN and that AOC is adding the field to their system as well. Senator Westerfield asked if DCBS collects the SSN. Commissioner James stated that they do collect when available. Senator Westerfield inquired about the percentage that has a SSN. Commissioner James

responded that probably more do have it with the exception of those going into court. Ms. Dudgeon commented that it is probably more that they are not able to provide rather than that they do not have a SSN. Commissioner James agreed. She also recommended having legal staff from each agency together to have the discussion to address any issues. Senator Westerfield asked to get the attorneys together before the next meeting.

Mr. Wickersham inquired if the Kentucky State Police (KSP) has been involved in the data collection. He noted that KRS 17.151 states that KSP, DJJ, CHFS and DOC are to be using the same identification number in any event. Senator Westerfield asked if anyone knew what number they were supposed to use. Mr. Wickersham noted that the statute does not specify. Senator Westerfield remarked that he would look at the statute prior to bringing the legal departments together but may contact them by email.

III. Next Meeting

Senator Westerfield expressed to council members that they are welcomed to email him with any issues regarding SB 200. He indicated that information regarding the next meeting date will be emailed to council members. Secretary Brown inquired about the requirement for a report by November, 2014. Senator Westerfield commented that he and Representative Tilley would be making a report to the Judiciary Committee at the November meeting.

IV. Adjourn

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