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Board of Juvenile Justice

DEPARTMENT OF JUVENILE JUSTICE

Central Office

Richmond, Virginia 23219

April 12, 2006

Present: James Turpin Kim Downing
Aida Pacheco Patricia Puritz

I. CALL TO ORDER

The meeting was called to order at 10:10 am by Mr. Turpin, Chair.

II. APPROVAL OF AGENDA

Mr. Turpin suggested several changes to the order of the agenda. The agenda was approved.

III. INTRODUCTIONS

Mr. Turpin welcomed everyone to the meeting and called for introductions of people in attendance. Director Green introduced Chief Deputy Director Sam Abed, Deborah Hayes, and Deborah McAlister, who are all new employees at DJJ. In addition to Central Office staff, Mr. Clyde Cristman and Ms. Dawn Smith represented the Secretary of Public Safety. Others were Marc Just, Roy Persons, Charles Simonini, Livia Jansen, Carolyn Harrington, Robert Buncher, Dale Schlutz, Fran Shelton, Sarah Shelton, Hollis Stewart, and Ms. Funez; Eileen Grey (VA C.U.R.E.); Andy Block, Tiffany Marshall, Carolyn Clark, and Liz Ryan (JustChildren); Mark Soler, Neil Mario, and Dana Shoenberg (Center for Children's Law and Policy); Jasmine Tyler (Justice Policy Institute); Frank Green (Richmond Times-Dispatch); and Andrew Brown, Jack Scott, and Roger Wylie (Crater Youth Commission).

IV. APPROVAL OF MINUTES for February 22, 2006

On Motion duly made by Ms. Puritz, seconded by Ms. Downing, to approve the minutes of the Board meeting held February 22, 2006. Motion carried.

V. COMMENTS OF PUBLIC

Mr. Andrew Block from JustChildren addressed on-going concerns with the juvenile correctional centers (JCCs), which included legal violations on a daily basis; new procedures that may not be lawful; decisions made by staff that should be made by the Board; and whether the best practices approach is being adopted for kids. He urged DJJ to look at other facilities around the country to see how they manage wards to reduce violence.

Ms. Tiffany Marshall from JustChildren addressed the concern of insufficient physical activity or daily recreation for female wards at the Bon Air JCC. She urged the Board to consider this subject as an item for a future meeting.

Ms. Fran Shelton, who has a daughter at Bon Air JCC, spoke about the differences between Culpeper and Bon Air JCCs regarding the handling of recreational opportunities and religious exposure. She said Bon Air does not provide her daughter with enough recreation or religious activities.

Ms. Carolyn Clark from JustChildren spoke on SOP 108 and changes made pursuant to a directive from Mr. Ed Murray, Deputy Director of Institutions. The changes relate to wards being found guilty of a number of institutional offenses while at a JCC – staff assaults, exposure, and security threat group activity. Staff can request and work towards the transfer to the adult system of a ward found guilty of such offenses. She also addressed the practice of adding an additional six months to a ward's LOS for committing a new offense. She urged the Board to change the policy and not have staff dictate such changes. She questioned the constitutionality of the policy and asked the Board to suspend SOP 108 and place this topic on the next agenda.

Ms. Jasmine Tyler of the Justice Policy Institute cited several concerns – inadequate mental health and rehabilitative services and lack of special education services for youth placed in adult facilities, and children with blended sentences.

Director Green addressed a question raised at the prior Board meeting concerning the impact of SOP 108 at Beaumont JCC. Ms. Puritz had asked how many wards at Beaumont had been prosecuted in Circuit, versus J&DR, Court and what the circumstances of the transfer were. Mr. Green reported that in 2005, there were nine felony assault cases – where the assault occurred at the JCC and prosecuted in Powhatan Circuit. All but one of the wards involved were 18 years of age or older at the time of the offense and were prosecuted in Circuit Court due to their age, not because of a request to transfer. The one ward who was under 18 was taken to J&DR Court, but acted out while in court, was charged with contempt, and the case was moved to Circuit Court. The transfer was not requested by DJJ. There were no recorded instances in 2005 where the agency requested that the Commonwealth's Attorney transfer such a case. He cited one recent case in Culpeper where a juvenile had been originally convicted in Circuit Court and was given a blended sentence – determinately committed to DJJ to be followed by a DOC sentence upon release from the JCC. The ward was over 18 and had an inordinate number of institutional offenses, several of which involved criminal charges. The ward refused to participate in treatment and had multiple assaults. In that case, the institution requested that the CSU petition the court to consider moving the ward to the adult system.

Mr. Green stated that one-third of wards in the system are currently 18 or over. 210 wards currently in JCCs were committed by Circuit Courts. When these wards commit assaults and are charged by the Commonwealth Attorney, the case is automatically heard in Circuit Court. At the same time, there have been a number of instances where determinately committed wards coming from Circuit Court have done well enough that the judge suspended the DOC portion of the sentence. SOP 108 was meant to send a message due to the increase of those types of offenses but has not resulted in many, if any, increased time serviced or transfers to the adult system.

Mr. Turpin said Mr. Muse could address the difference between policy and procedure at the next meeting. He also suggested the Board may want to revisit SOP 108 at a later Board meeting.

Mr. Green noted that the LOS Guidelines previously adopted by the Board needs to be reviewed and asked for a Board member to participate in that process. Mr. Turpin asked Ms. Puritz to represent the Board on that committee.

Mr. Mark Soler of the Center for Children's Law & Policy provided materials from the Annie E. Casey Foundation – "*13 – Pathways to Juvenile Detention Reform; Detention Reform and Girls, Challenges and Solutions*" by Francine T. Sherman and "*Advocasey, Documenting Programs That Work for Kids & Families,*" Volume Five, Number One, Spring 2003. He especially wanted the Board to note an article on Page 28 of "*Advocasey ...*" that dealt with the State of Missouri's juvenile correctional system, which is the best in the country. He said the State of Louisiana is following Missouri's model and thinks Virginia should, too.

Mr. Tim Howard, Deputy Director of Community Programs, said he has been to Missouri and looked at its system. In fact the Research and Evaluation Unit's recidivism study found Missouri's results were similar to Virginia's after taking into account the methodology used by Missouri. He agreed that smaller facilities are better, but to suggest Missouri had the model program in the country is not a fair assessment of other areas.

Ms. Eileen Grey from VA C.U.R.E. spoke about Senate Bill 561 – gang and juvenile records law (the depth of personal information now available to every full and part-time law-enforcement person in state who alleges that a child has had some gang activity). "Gang" is defined so broadly that there is no restriction on detailed social history. She urged the Board and the Department to establish a policy to monitor access to that information before the bill becomes law in July. She urged the Board to consider a transportation program to get the parents to the children as described in an article from the "*Washington Post.*" Other concerns related to the detention risk assessment instrument being used for relatively minor first offenses, the public participation regulations that were recently adopted, the costs of the ward telephone system, and the child support experience.

Mr. Phipps, Legislative Coordinator, noted that the Department had worked with the General Assembly to modify the gang bills, as introduced. As passed, any release and use of juvenile records is limited to the investigation of alleged criminal street gang activities, and information having no bearing on gang activity is removed.

Regarding mental health records, Mr. Green discussed the transfer file that follows a ward from facility to facility. The Department's procedure will provide that mental health records will be kept separate from other records. He said that the new procedure, which has not yet been finalized, was reviewed with the Office of the Attorney General to assure that it does not violate HIPPA and substance abuse treatment regulations. A previously issued memorandum provided that treatment records would become part of the transfer file, which raised concerns by a number of treatment staff. They feel that sharing such information outside of treatment professions could harm the relationship between a therapist and a ward, resulting in a lower quality of treatment. Mr. Green stated that DJJ is committed to insuring that the procedure is within the Code and other laws and regulations while still meeting the critical needs of children in its facilities. He said the transfer file will consist of two parts – traditional records and treatment/assessment information (A and B). Access will be controlled and limited to certain individuals who must have training. Part B access will be allowed to BSU staff, facility superintendent, Institutional Review committee, director, chief deputy director, and deputy directors. A log of all individual who access the files will be maintained. Certain mental health and substance abuse information is needed by the counselor to prepare a ward for release; by the parole officer to prepare a placement and to contract for necessary services so that the ward gets appropriate follow-up treatment after release. Consent forms are being modified.

Mr. Green stated that DJJ has very good treatment programs, and that, unfortunately, some children are sent to DJJ because they need mental health treatment that would not otherwise be available. He discussed good work done on the community side (8,500 youth in the communities; 1,000 in facilities). DJJ has the best data system to look at how it is doing than any state. Recidivism is not the only measure of success. He discussed the importance of following a youth after release. He said the Department plans to move forward on modifications to the procedures on access to treatment records and does not feel that Board approval is required. However, he agreed to brief the Board periodically.

Ms. Pacheco applauded the agency for its work and urged that the voices of youth and parents are involved in the process.

Livia Jansen, Roy Persons, Charles Simonini, Carolyn Harrington, Robert Buncher, Dale Schlutz, and Mark Just gave brief testaments of their concerns regarding confidentiality of mental health records while providing the best treatment possible to reduce recidivism, and training for handling those records. They are in favor of sharing information in a helpful and productive fashion so that all people working with a ward have what they need for the best interest of the child; however, if the information is mishandled, it might impact on their ability to maintain a productive relationship with their wards.

Dana Schoenberg provided information on other states and handed out copies of "*The American Prospect*," Special Report, September 2005 – Breaking Through.

Mr. Green said the Department shares these concerns. He stressed that information is not distributed to people who are not involved in treatment for the wards. If information is inappropriately leaked by unauthorized persons, action will be taken – penalties, dismissal. He said 43% of the males and 57% of the females have a need for some type of mental health treatment. He discussed funding from the Legislature. He said comparative

recidivism with California and DC showed they were doing worse than Virginia. The Department needs to move forward. Not everyone will agree, but people will be listened to and educated on responsibilities.

Ms. Pacheco would like information on where the Board role begins and ends. She said she wants what is best for the youth and understands that just the amount of information necessary to support the child will be shared.

Mr. Block urged the Department to go back to using the procedure that had been in place while conducting the training for the new procedure.

Mr. Pullen, Deputy Director of Administration and Finance, said that procedure was not working and that staff were not getting what they needed to work with the child.

Mr. Murray said nothing heard here today from the Director was ever designed to put information in the hands of people who did not need it. We do want the children to believe in us and that they can say things in confidence. DJJ needs to do what is necessary to help the wards. Every decision on these records has been done under the auspices of legal advice. DJJ's duty is public safety; keeping people safe. But DJJ also has a duty to help these children succeed both in the institutions and after they leave.

Mr. Muse said Mr. Murray was correct. The Board makes policies, and the Department through procedures carries those policies out. The Board has the authority to review the Department's programs. With regards to specifics of this policy, the AG has reviewed it since the beginning and gave the best advice possible under the circumstances; that it was in compliance with the law. Whenever there is a question concerning compliance with the law, the OAG will look at it.

Mr. Turpin suggested that this issue be discussed again at the June meeting. He feels the Board needs something more tangible to look at and discuss. Staff needs authority to move to next level.

Mr. Green said he appreciated the concerns expressed. He wants to move with something he believes will do some good.

Ms. Pacheco said she feels the Department is working with the best intentions. She would like more information and urged taking immediate action to correct it if it is not going right. She said she trusted the staff.

Ms. Puritz encouraged continuing open dialogue, but does not want to obstruct progress.

VI. COMMITTEE REPORTS

A. Secure Services Committee

1. Certifications

On Motion duly made by Ms. Puritz, seconded by Ms. Pacheco, to certify Prince William County Juvenile Detention Center and Post-Dispositional

Program for three years. Motion carried. (Mr. Turpin and Ms. Downing abstained.)

On Motion duly made by Ms. Puritz, seconded by Ms. Downing, to certify Bon Air Juvenile Correctional Center for one year with a status report to be given at the June Board meeting on compliance with mandatory standards and the provision of recreational services, especially for girls. Motion carried.

On Motion duly made by Ms. Puritz, seconded by Ms. Downing, to certify the New River Valley Detention Center Post-dispositional Program until June 10, 2007, with a capacity of eight residents. Motion carried.

On Motion duly made by Mr. Puritz, seconded by Ms. Downing, to certify Piedmont Regional Juvenile Detention Center, the Reception Diagnostic Center, and Virginia Beach Juvenile Detention Center and Post-dispositional Detention Program for three years. Motion carried.

2. Certification Issues

Ms. Puritz reported that Lynchburg Regional Juvenile Detention Center is now in full compliance.

Ms. Puritz said that Dr. Ito reported to the Committee that Beaumont Juvenile Correctional Center's program deficiencies are showing improvement. A full audit is scheduled for November 2006 and the facility is preparing for a pre-audit. She said Virginia's First Lady, Anne Holton Kaine, will participate in an event (lunch for model wards) at Beaumont on April 19. He will give another report at the June Board meeting.

Mr. Roger Wylie, legal counsel for the Crater Youth Commission, spoke on Crater Detention's problems with overcrowding. He discussed alternatives to help with the problem – youth waiting for Circuit Court hearings, youth being picked up daily rather than weekly by DJJ, buying space to house extra youth. He argued that Crater was being held to a standard based on bodies per square footage; an artificial number. He did not feel it was in the best interest of the youth. He also cited the financial aspect of buying space.

Mr. Pullen said Crater was extremely well run. DJJ has statewide funds to reimburse localities, detention homes, and commissions that have to place youth in other homes.

Mr. Howard said the population control plans that Crater has submitted to the Board have not been met. The facility has the responsibility to meet the 22-bed average daily population. He would like to see long-term plans to keep numbers down.

Ms. Puritz said she understands the issues Mr. Wylie raised, but the Board cannot tolerate the overcrowding.

B. Non-Secure Services Committee

1. Certifications

On Motion duly made by Ms. Downing, seconded by Ms. Pacheco, to certify the 19th District Court Service Unit, the Virginia Beach Crisis Intervention Home, and Youth Haven I for three years. Motion carried.

On Motion duly made by Ms. Downing, seconded by Ms. Pacheco, to certify the 31st District Court Service Unit and Hampton Newport News Less Secure for three years with letters of congratulations for 100% compliance. Motion carried.

On Motion duly made by Ms. Downing, seconded by Ms. Pacheco, to continue the certification status of Bridge House to September 2006 with a status report on the noncompliance issues and a mandatory training for staff on standards compliance. Motion carried.

On Motion duly made by Ms. Downing, seconded by Ms. Pacheco, to continue the certification status of the Charlottesville FOGH Program to September 2006. Motion carried.

VII. OTHER BUSINESS

None.

VIII. DIRECTOR'S COMMENTS

Director Green commented on the Leadership Conference to be held May 8-9, 2006, at the Sheraton Park South. He urged Board members to plan to attend on May 9. He said everyone would be receiving further information.

IX. BOARD COMMENTS

Mr. Turpin discussed the Conflict of Interest training requirements and the JDAI Conference. He said he attended the Detention Superintendents' meeting in Lynchburg and the Employee Recognition Luncheon in Richmond.

The Board members received copies of a letter and accompanying resolution commending Donald R. Carignan for his service. These items were approved to be prepared for presentation to Mr. Carignan's widow and children. At the June meeting the Board will discuss establishing an award of some type to be named for Mr. Carignan.

Ms. Pacheco asked when another Board member might be appointed. Board members were urged to give names of potential appointees to Messrs. Green and Turpin.

X. ADJOURN

The meeting adjourned at 1:55 PM.

Respectfully submitted,

Patricia F. Rollston