



Juvenile Justice Commission

2017 Annual Report



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Our Mission Statement



The West Virginia Supreme Court of Appeals is committed to a juvenile justice system that promotes effective interventions that will enhance the likelihood of rehabilitation and behavior reform for those children involved in the court system. It is the Court's desire that West Virginia serve these youth and their families within a sound framework of public safety while providing guidance, structure and appropriate, evidence-based services. Circuit judges need to be confident that those youth whom they sentence are given, as a result of pre-petition, status or delinquency court proceedings, through academic services and rehabilitative programs, every opportunity for success after their confinement.

Therefore, the facilities and programs operated or managed by the West Virginia Division of Juvenile Services or the West Virginia Department of Health and Human Resources must, from time to time, be examined by the Court not only to ensure that the sentencing judges are very familiar with the environment into which they are ordering youth into out-of-home placements but also in order to ensure that these programs are appropriate and as effective as they can possibly be. In that manner, the adjudication system itself can be improved by providing more effective intervention at an early stage of juvenile delinquency. Through collaboration and communication between the Court, the Legislature, and the Executive agencies, West Virginia's investment of energy and resources into children who are in trouble will result in the best possible future for the State.

Juvenile Justice Commissioners

The Honorable Phillip Stowers
Circuit Judge, Putman County

Justice Margaret Workman, Ex-Officio

The Honorable Eric O'Briant
Circuit Judge, Logan County

The Honorable Joanna Tabit
Circuit Judge, Kanawha County

The Honorable Jennifer Dent
Circuit Judge, Greenbrier and
Pocahontas Counties

The Honorable Christopher Wilkes
Circuit Judge, Berkeley, Jefferson, and
Morgan Counties

The Honorable Gary Johnson
Administrative Director, Supreme Court of
Appeals of West Virginia

The Honorable Gail Boober, Magistrate
Jefferson County

Megan Annitto, Assistant Professor
Charlotte School of Law, Charlotte, NC

Cammie Chapman, Director Division of
Children's Services, Supreme Court of
Appeals of West Virginia

W. Jesse Forbes
Forbes Law Offices, PLLC

Bobbi Hatfield, Former State Delegate

Chuck Heinlein, Community
Representative
Retired WVDOE Deputy Superintendent

Sam Hickman, Executive Director
National Association of Social Workers,
West Virginia Chapter

Cindy Largent-Hill, Director Juvenile Justice
Commission, Supreme Court of Appeals of
West Virginia

Janie Moore, Director of Magistrate Court
Services Division, Supreme Court of Appeals
of West Virginia

Jane Moran, Attorney
Jane Moran Law Office, Williamson, WV

Dr. Steven Paine, State Superintendent of
Schools, West Virginia Department of
Education

Represented by: Jason Butcher,
Coordinator, W.Va. Board of Education
and

Jacob Green, Special Assistant to the Chief
Officer, Office of Diversion and Transition
Programs, W.Va. Department of Education

The Reverend Rue Thompson
Diocese of Wheeling-Charleston

The Reverend Matthew Watts
MJ Watts Ministries, Charleston, W.Va.

Administrative Office Staff:

Alicia Mascioli, Deputy Director,
Juvenile Justice Commission

Lorri Stotler, Administrative Assistant



Our History

In July 2011, the Supreme Court of Appeals of West Virginia demonstrated its concern for youth involved in the justice system by establishing the Adjudicated Juvenile Rehabilitation Review Commission. Then-Chief Justice Margaret Workman issued an Administrative Order outlining the reasons for organizing a group of knowledgeable stakeholders to thoroughly review the facilities, procedures, and programs that are charged with rehabilitating youth in the judicial system. The Court expressed a concern and interest in determining if youth were receiving an education and rehabilitation in a safe environment.

The Commission initially reviewed those facilities, policies and procedures within the West Virginia Division of Juvenile Services. However, as our work continued, it was evident that the state's justice system was complex and involved additional public and private entities. Those groups include the West Virginia Department of Health and Human Resources (DHHR), the West Virginia Department of Education and child care providers of residential care and community based services. Thus, the scope of interest and our work expanded to include facilities and providers of services operated and/or contracted by DHHR.

As our scope of its work evolved, the name of the Commission was changed to the Juvenile Justice Commission and this year, in 2017, the Commission amended its mission statement to include a broader perspective and population. It is the Commission's desire that West Virginia's juvenile justice systems serve these children and youth and their families within a framework of public safety, while providing the necessary interventions, in a positive and healthy environment. Circuit judges and other stakeholders should be confident that these youth, whether in pre-petition, status, or delinquency court proceedings, are given every opportunity to succeed.

Our Members Change

The Juvenile Justice Commission welcomed the Honorable Jennifer Dent, Circuit Court Judge for Greenbrier and Pocahontas Counties. Judge Dent brings a history of working on children's issues and is an advocate for system reform that will positively impact the complexities within the child welfare and juvenile justice systems. Judge Dent assumed the seat previously held by Judge Lewis Marks who retired in December 2016.



In January 2017, Judge Gary Johnson assumed the position of Administrative Director with the Supreme Court of Appeals of West Virginia. Judge Johnson spent his years on the bench working diligently to improve the systems impacting children and youth. He served as the longtime chairman of the Court Improvement Program Board. The Commission is pleased that he will remain on the Commission in his new capacity with the Court.

The Honorable Christopher Wilkes, Circuit Court Judge for Berkeley, Jefferson and Morgan Counties, accepted the invitation to join the Commission. He will assume the seat previously held by Judge Johnson. Judge Wilkes formerly chaired the Court Improvement Program's Youth Services Committee and has a historical knowledge of children's issues. The Commission welcomes his judicial knowledge and expertise.



Judge Christopher Wilkes and Cindy Hill



Janie Moore, Director of Magistrate Court Services with the Supreme Court of Appeals of West Virginia joined the Commission. From time to time the Commission learns of challenges (specific to children and youth in the juvenile system) that occur within magistrate courts. The Commission welcomes Director Moore and her expertise to assist the Commission in better understanding those struggles.

West Virginia State Schools Superintendent Dr. Steven Paine has designated Jason Butcher, Coordinator, to represent him on the Commission. Mr. Butcher has a strong commitment to the educational and vocational services provided to youth in the justice system and in out-of-home care. The Commission welcomes his knowledge.



Jason Butcher, left
and Jacob Green, right

Upon learning that Jane Moran was retiring, Justice Margaret Workman organized a celebration to recognize her more than forty years of service. The Commission hosted a retirement luncheon which included Ms. Moran's family, friends, and colleagues. Justice Workman acknowledged Ms. Moran's passion for justice and the impact she had on improving various systems on behalf of children and families. The Supreme Court recognized her dedication, service, and advocacy with a beautiful plaque. Justice Workman presented the plaque as well as a proclamation from Gov. Jim Justice noting Ms. Moran's career accomplishments.



Justice Margaret Workman and Jane Moran



Expanding Our Knowledge

The Juvenile Justice Commission realizes that the child welfare and juvenile justice systems are always changing and the challenges are ever growing. With a continued commitment to a three branch approach to systemic redesign - believing that that this is a much more effective way to accomplish change - it has been the practice to invite and include stakeholders and experts to our quarterly meetings. This is one mechanism to learn and better understand.

Guests Providing Information During 2017

KVC Health Systems

people matter

KVC Health Systems, represented by Brent Lemon, President – KVC WV and Tommy Bailey, Spilman, Thomas & Battle

Mr. Lemon and Mr. Bailey discussed the efforts in place to establish a college, in Montgomery, WV, for youth aging out of foster care.



Mr. Tommy Bailey and Mr. Brent Lemon



WEST VIRGINIA DIVISION OF

JUVENILE SERVICES

West Virginia Division of Juvenile Services, represented by Amanda (former resident), Ron Mullholland Juvenile Center Director Linda Scott, and DJS Division Director Stephanie Bond

Amanda shared her journey through the foster care and juvenile justice systems. She spent most of her childhood moving between placements and foster homes. She had many struggles but then, while at Ron Mullholland Juvenile Center, she became focused on earning her high school diploma and attending cosmetology school. She is in the process of transitioning to an apartment and independent living.

West Virginia Department of Health and Human Resources, represented by Bill Crouch, Cabinet Secretary

Governor Jim Justice offered Bill Crouch the position of DHHR Cabinet Secretary. Secretary Crouch was introduced to the Commission and asked to share his background and vision for DHHR – especially around child welfare and juvenile justice.



Davis-Stuart, Inc., Lewisburg, WV

The Commission visited Davis-Stuart, at the suggestion of Judge Jennifer Dent, for our September meeting. Information on its programs and a tour of the Lewisburg Campus was provided by Richard Byrd and Stephanie Plybon. The Department of Education’s Office of Diversion and Transition Programs Culinary Arts Program and its students provided a tasty lunch.



The wonderful meal prepared by students.



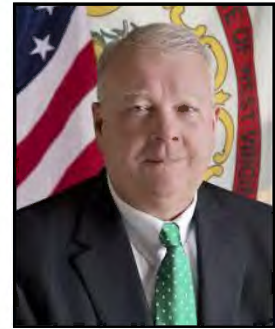
Cindy Largent-Hill making new friends.



A student showing Sam Hickman the barn and small farm outside their window.

West Virginia Military Affairs and Public Safety, represented by Jeff Sandy, Cabinet Secretary

Governor Jim Justice asked Jeff Sandy to assume the position of Military Affairs and Public Safety Cabinet Secretary. Secretary Sandy attended the September Commission meeting to introduce himself and to share his vision for the Division of Juvenile Services. He stated he is eager to partner with the Commission and continue the positive and collaborative relationship currently in place.



**West Virginia Department of
EDUCATION**

West Virginia Department of Education, Office of Leadership and Accountability, represented by Justin Boggs, Assistant Director

Mr. Justin Boggs addressed several areas of interest to include attendance, suspensions, mental health first aid, and discipline. There was a healthy discussion related to the attendance policy (4110) as outlined in state code.

Highland Hospital, represented by Cynthia Persily, Chief Executive Officer

Because an increasing number of children in the juvenile justice system display mental health symptoms, and at the suggestion of Judge Joanna Tabit, our December meeting was held at Highland Hospital in Charleston. Dr. Persily shared some of the challenges facing psychiatric residential treatment facilities – especially around acute care and transition/discharge planning.



Pictured left to right: Janie Moore, Jesse Forbes, Cynthia Persily, Judge Eric O'Briant, Cindy Largent-Hill, Justice Margaret Workman, Judge Joanna Tabit, Reverend Matthew Watts, Alicia Mascioli, Lorri Stotler, Felicia Roark, and Sam Hickman.

West Virginia Division of Juvenile Services, represented by William Marshall, Director and Denny Dodson, Deputy Director

Bill Marshall recently accepted the position of DJS Division Director. Director Marshall spoke about his career in law enforcement and his commitment in continuing the rehabilitative interventions currently in place within the DJS facilities. He thanked the Commission for its work and role in ensuring the division is compliant in its responsibilities to serve youth in DJS care.



Mr. Denny Dodson, left and Mr. William Marshall, right

West Virginia Department of Military Affairs and Public Safety, represented by Jack Luikart, Director of Substance Abuse Control



Mr. Jack Luikart

The state's correctional facilities are facing increasing challenges with drugs and substance abuse. There have been an increasing number of drugs coming into the hands of the inmates, and along with that, an increasing number of drug overdoses. This is primarily an issue in the adult facilities; however, there has been some drug activity in the juvenile facilities. Director Luikart shared various policies and protocols that are being put into place to halt and monitor opportunities for drugs to enter facilities.

West Virginia Department of Education represented by Dr. Christy Chambers, Juvenile Education Program Executive Director

Dr. Chambers discussed the Career Integrated Experiential Learning opportunities available to students in the DJS and residential facilities. This was created to allow students to stay on track with their home schools, which aides in a more successful transition after discharge from an out-of-home placement.



Dr. Christy Chambers

Our Collaborative Endeavors

The Juvenile Justice Commission is committed to working in tandem with all branches of government as well as our colleagues in the private and public sectors. This is best accomplished by Commissioners and Commission staff actively participating in interagency meetings and governmental groups. Some of those include:

- ❑ Court Improvement Program Board, Supreme Court of Appeals of West Virginia
 - Youth and Family Services Committee
 - Shelter Care Workgroup
 - Away from Supervision Committee
 - Data, Statutes, and Rules Committee
 - Training Committee
- ❑ Commission to Study Residential Placement, West Virginia Department of Health and Human Resources
- ❑ Education of Children in Out-of-Home Care Advisory Committee, West Virginia Department of Education
- ❑ West Virginia Juvenile Justice Reform Oversight Committee, Governor's Office
- ❑ Children's Justice Task Force, West Virginia Center for Children's Justice, Crimes Against Children Unit, West Virginia State Police
- ❑ West Virginia Child Care Association
- ❑ West Virginia Treatment Initiative
- ❑ Statewide Youth Treatment Planning Grant Initiative Advisory Workgroup, DHHR – Bureau of Health and Health Facilities
- ❑ West Virginia CANS JJDP Project, Child Advocacy Centers
- ❑ Human Trafficking Task Force
- ❑ State Fatality Review Team, Supreme Court of Appeals of West Virginia

Commission Staff Participated in the Following

New Judges' Training

“Juvenile Delinquency and Status Offender, Juvenile Placement Alternatives” – assisted Judge Jack Aslop

Rubenstein Center

Facilitated dinner and tour for Supreme Court Justices, Circuit Judges, and Administrative Office staff

Three Branch Institute

Trauma Informed Care – sponsored by Casey Family Foundation

Daymark Difference, television program airing locally in Charleston

Cindy Largent-Hill was invited to speak about the Juvenile Justice Commission and the role juvenile justice is playing in our current child welfare system.

State of African American in West Virginia Summit, hosted by HOPE CDC and Marshall University

Cindy Largent-Hill was invited to sit on a panel discussion entitled “Juvenile Justice and Adult Criminal Justice” at Marshall University.

Policy Roundtable Series, ACEs Coalition and WV Kids' Health Partnership

Cindy Largent-Hill was invited to serve on a panel in Martinsburg which focused on childhood trauma and adverse childhood experiences.



Our Monitoring Continues

*STATE OF WEST VIRGINIA, ex rel. D.L. and K.P.,
(Petitioners)*

Vs.

*STEPHANIE BOND, Acting Director, Division of Juvenile Services, and
DAVID JONES, Superintendent of the West Virginia Industrial Home for
Youth, (Respondents)*

The matter in this suit was resolved by final order entered by Ninth Judicial Circuit (Mercer County) Judge Omar Aboulhosn on January 21, 2014. Included in this order was a specific directive to the Juvenile Justice Commission related to “continued monitoring” (noted below).

*Therefore, this Court hereby **ORDERS** that monitoring that has been undertaken by Ms. Largent-Hill and her staff for this litigation continue under the direction and control of the Supreme Court’s Adjudicated Juvenile Justice Rehabilitation Commission. While the Commission does not have the ability to litigate disputes as a Circuit Court would have, the cooperative atmosphere that the parties have operated under during this litigation will allow parties to have a mechanism to work through the Commission to hopefully resolve any issues that may arise in the future.*

Commission staff was ordered to monitor facilities under the authority of the West Virginia Division of Juvenile Services and report any related findings on a regular basis to the Juvenile Justice Commission. A copy of our Monitoring Form that is used to collect information during visits is located in the next section. The Commissioners receive a quarterly summary of these findings at each meeting.

Our Monitoring Continues

Commission staff visit Division of Juvenile Services facilities on a regular basis. Using the established monitoring form, Commission staff review those items identified as concerning and agreed upon during the lawsuit. The DJS Director, Deputy Director, and the Facility Administrators continue to appreciate the information and the feedback. Commission staff members are welcomed and treated respectfully during visits. Information regarding significant happenings and critical incidents has been timely and thorough. Commission staff members appreciate the positive relationship!

The Division continues to focus on rehabilitative programs. One of those that continues to grow and expand is in the area of treatment.

Various forms of interventions are introduced into the facilities – depending on the population served within that facility. DJS has continued its agency-wide weekly review of youth who are struggling behaviorally, those with significant deficits, and/or those needing some additional attention.

Internally within each facility, a weekly “clinical meeting” is held. This meeting involves all the disciplines working with the residents – medical, education, treatment, and security. Residents’ behaviors, needs, phase level, and case plans are reviewed.



Mr. William Marshall

During the latter part of 2017, Stephanie Bond departed from the Division of Juvenile Services and William Marshall assumed the position as Division Director. Director Marshall and Deputy Director Dodson have continued the positive relationship that is necessary for Commission staff to complete the responsibilities expected and required.



Ms. Stephanie Bond

Our Monitoring Continues

Department of Health and Human Resources

The Commission is committed to studying the entire juvenile justice system. We would be remiss if we did not include and involve the Department of Health and Human Resources. Many of the youth in this system are receiving services, treatment, and out-of-home care from the residential treatment, shelter care, and psychiatric hospitals. Commission staff continue to visit those facilities as travel schedules allow.



Department of Education – Office of Diversion and Truancy Programs

The Juvenile Justice Commission values the academic services provided in the out-of-home facilities. This is an extremely important piece of the treatment puzzle. The Commission continues to be impressed with the quality of the academic services as well as the partnership between providers and the Department of Education.

As mentioned throughout this report, the juvenile justice system involves children and youth with challenging and significant emotional, mental, and behavioral health symptoms. Education staff tackle those challenges with a positive and committed attitude. The Department of Education staff provides education in a somewhat traditional classroom, offer TASC (Test Assessing Secondary Completion) preparation, research, and credit recovery options and/or provide vocational, technical and post high school opportunities.



Facility Monitoring Form

Taking a Look

Facility Monitoring Form

Facility: _____ **JJC Staff:** _____ **Date:** _____

General Issues	Current Status	Staff / Resident
Residents are out of rooms 6 am – 8 pm; 7 days/week (A. 1.)		
Programming/Activities are offered for most of day/evening (A.1.)		
Unit has an hourly detailed activity schedule & it is followed (A.2.)		
Outdoor recreation is offered 1 hour/weekdays and 2 hours/weekends (A. 4.)		
Resident Handbook (D. 19.)		
Bathroom Access: Toilet at night; provided toilet paper (H. 54.a. & b.)		
Telephone: free calls/week minimum of 15 min.; reasonable privacy (G. 43.)		
Permitted to receive calls from attorneys, other professionals & close family any time; unrestricted legal calls (G. 45. & 46.)		
Mail: scanned in front of resident; if censored resident notified (F. 35.) receive 10 stamps/month; delivered immediately; photos permitted; receive writing supplies (F. 39. & 40. 41. & 42.)		
Facility is clean (rooms, common areas)		
Medical Services (requests to speak with medical are answered/timely)		
Access to staff (treatment, security and admin): responsive, fair, respectful. Rules are fair and consistent		

Facility Report Form (4 Pages)

General Issues	Current Status	Staff / Resident
Room Confinement		
<p>DJS Policy 332.00: <i>Specialized housing is used for residents who are separated from others due to medical necessity, sanctions, behavioral concerns, a court order, or protective custody</i></p>		
<p>Incidents are documented – with reason, staff initiating, duration (B. 7.)</p>		
<p>Access to daily shower, large muscle recreation, similar food, education (B. 8.)</p>		
<p>Medical and/or mental health talked with resident daily (face/face; not thru door) (B.9.)</p>		
<p>Time Out not to exceed 4 hours (out of control) (B.10.)</p>		
<p>Time Out exceeding 4 hours approved by Admin. (B.11.)</p>		
<p>Confinement due to major infraction not to exceed 3 days (B. 12.)</p>		
<p>Due process was used (B.13.)</p>		
<p>Ad Seg (sparingly) not to exceed 10 days; direct order & detailed reasons available in writing (B. 14.)</p>		
<p>Resident on Ad Seg can verbally explain why and process to be removed from Segregation (B. 15.)</p>		
<p>Ad Seg exceeding 10 days involves C'Office (B. 16.)</p>		
<p>Resident was involved in writing behavior plan, understand the plan, and have a copy</p>		

General Issues	Current Status	Staff / Resident
Modified Procedures for Safety		
<p><i>DJS Policy 332.00: Residents may be segregated prior to hearing if they are being physically aggressive with other staff and/or residents and are not amenable to reasonable direction and control.</i></p>		
<p>Immediate sanction of room confinement up to 3 days</p>		
<p>Due Process hearing held within 24 hours</p>		
<p>Specialized Housing procedures should be followed</p>		
<p>Mechanical restraints used for resident movement in facility</p>		
<p>Written notice is made</p>		
<p>Immediate notice to court, monitor & parties' counsel; within 24 hours</p>		
Suicidal Procedures		
<p>Protocol was followed as outlined.</p>		
Disciplinary Due Process		
<p>Resident received written notice of violation 24 hours before hearing (no punish prior to) (D. 21.)</p>		
<p>Resident was heard during hearing & has witnesses (D. 22.)</p>		
<p>Resident received written decision with reasons and sanctions; based upon evidence (D. 23. 24.)</p>		
<p>Right to appeal decision (D. 26.)</p>		

General Issues	Current Status	Staff / Resident
Grievance Process		
Access to locked box; forms available w/out asking staff Handled by Supt/Director (E. 29 30.)		
Receive written copy of decision (E. 32.)		
Treatment Related Services		
Residents are involved in development of service plan		
Residents can verbally explain goals/objectives on plan		
Residents have a copy of plan		
Individual &/or group counseling is provided (topics, frequency, etc.)		
Education		
Education staff responsive, fair, respectful		
Quality of academics; viability; progression		
Spiritual		
Reasonable access to spiritual materials, services, authority. Frequency.		
MDT Meetings		
Quarterly MDT's while in placement		
MDT was pre-scheduled; meeting conducted with stakeholders invited and/or present		
Attorney Contact		
Resident spoke w/ attorney prior to hearing		
Resident has had contact w/ attorney since placement		

Additional Comments: _____

Exploring the Issues



United States Department of Justice

In 2015, the U.S. Department of Justice investigated our state's mental health system and from that investigation findings were sent to then-Governor Earl Ray Tomblin. Due to changes within the national administration and also within the West Virginia Executive Branch, extensions for responses were granted during calendar year 2017. Department of Health and Human Resources Cabinet Secretary Crouch continues to work toward a resolution. On occasion, Department of Justice staff have engaged in conversations with various members of the Commission inquiring into the availability and/or accessibility of mental health interventions.



Youth in Division of Juvenile Services

West Virginia's juvenile justice system often finds itself struggling with complex, high-need children and youth ultimately placed in Division of Juvenile Services' detention centers. These are youth whom one wouldn't typically expect to be in a detention facility. Presenting issues include juveniles with an IQ well under 70, younger children (under 12 years of age), youth on the Autism spectrum, or those who suffer from serious mental illness and/or significant trauma. Many have severe acting out behaviors which challenge the safety of the youth and/or the safety of others. Due to limited services and lack of out-of-home options, these youth are placed in detention facilities and remain there for lengthy periods of time.

A contributing factor which can obstruct the progression of a case is that two state agencies (DHHR and DJS) are involved in determining the best plan for each juvenile. This can hinder communication and the delineation of responsibilities can be fragmented. Commission staff organized with DHHR's Bureau of Children and Families and Bureau of Health and Health Facilities and the Department of Education's Office of Diversion and Transition Programs to join the Division of Juvenile Services in a weekly phone call to discuss identified high risk/high need youth. Each week, each youth's current behaviors, treatment needs, and options for transitioning from detention are reviewed. These weekly "transition staffings" have enhanced communication between various agencies as well as educating the many stakeholders about the struggles and gaps within the child welfare and juvenile justice systems.

Exploring the Issues

Regional Roundtable Discussions

The Juvenile Justice Commission, in partnership with the Court Improvement Program's Youth Services Committee, facilitated state-wide conversations to discuss the system's dependence on out-of-home care. Many of those discussions revolved around the need to better understand and define West Virginia's out-of-home/provider infrastructure. In an effort to better understand and to learn, Commission staff initiated conversations with the varying types of residential (out-of-home) providers, except foster homes. This included the Division of Juvenile Services, Emergency Shelter Care, Psychiatric Residential Treatment, and Residential Treatment Providers. These roundtable conversations occurred in each of the four Department of Health and Human Resources regions. The agenda for each meeting included asking attendees to share challenges, identify systemic needs, and offer problem-solving suggestions. Specific items include: current population served, admission criteria, referral process, barriers to providing services, and untapped resources.

The meetings were very informative, typically the dialogue was similar regardless of region or type of facility. The conversations were troubling – with concerns about systemic gaps and malfunction. The next challenge is to take the information received and organize into meaningful communication aiding in systemic reform and redesign.

In spite of the many struggles discussed, it was evident that all the providers are committed to providing the appropriate interventions each youth needs in a warm and nurturing environment. A common thread in the conversations was the desire to keep each youth's best interest first and foremost.

Exploring the Issues

State of West Virginia ex rel. Pressley Ridge, et al. v. West Virginia Department of Health and Human Resources, et al.

In February 2016, the West Virginia Department of Health and Human Resources presented new contracts to those agencies that operate emergency shelters and residential group homes. These new contracts were significantly different from previous contracts. The changes proposed dismantling the current “level system,” were unclear on the new designations, focused care on a calendar versus a treatment model, changed or ceased reimbursement after a certain number of days, and stated that Medicaid would pay for all services outside of room, board, and supervision. Providers attempted to discuss these impactful changes with the then-DHHR leadership with no success.

Because of the continuing concerns, lack of information and growing confusion, the Juvenile Justice Commission unanimously voted to conduct a public forum. It was hopeful that this would serve as a mechanism for all stakeholders to provide information on the future of out-of-home options for youth in the justice system. Ideally, the Commission would have liked to have conversed with the DHHR about intentions to define, allocate, fund and reimburse services.

On July 27, 2016, the Juvenile Justice Commission hosted a public forum. Commissioners made clear that it was neither their intent nor their role to override a decision of the Executive Branch and that the forum was solely an opportunity for public comment.

During this same time, several residential providers joined forces and filed a petition in Kanawha County Circuit Court seeking injunctive relief which was subsequently denied. The Petitioners chose not to appeal that ruling and filed the writ of mandamus currently being considered by the West Virginia Supreme Court of Appeals.

Continued.....

Exploring the Issues

*STATE OF WEST VIRGINIA ex rel. PRESSLEY RIDGE; ELKINS MOUNTAIN SCHOOL; ACADEMY MANAGEMENT, LLC; STEPPING STONES, INC.; STEPPING STONE, INC.; FAMILY CONNECTIONS, INC.; and BOARD OF CHILD CARE OF THE UNITED METHODIST CHURCH, INC.,
Petitioners*

v.

*WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES; KAREN L. BOWLING, Cabinet Secretary of the West Virginia Department of Health and Human Resources; WEST VIRGINIA BUREAU FOR MEDICAL SERVICES; CYNTHIA BEANE, Acting Commissioner for the West Virginia Bureau for Medical Services; WEST VIRGINIA BUREAU FOR CHILDREN AND FAMILIES; and NANCY EXLINE, Commissioner for the West Virginia Bureau for Children and Families,
Respondents*

The case went to the Supreme Court and then back to Kanawha County Circuit Court with Judge Todd Kaufman presiding. Shortly after his appointment to the Department of Health and Human Resources, Cabinet Secretary Crouch met with the parties to better understand the issues with the goal of finding a compromise and resolution. A settlement agreement was subsequently entered wherein the Department of Health and Human Resources basically continued with contracts very similar to those prior to the lawsuit. Commission staff were invited to join some of those conversations and have continued to be included.

Exploring the Issues



WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Senate Bill 393

BY SENATORS BLAIR, BOLEY, BOSO, DRENNAN, FACEMIRE, FERNS, GAUNCH, PALUMBO, PLYMALE,
PREZIOSO, STOLLINGS, SYPOLT, AND TAKUBO

[Originating in the Committee on Finance; Reported on January 25, 2018]

West Virginia Juvenile Justice Reform Oversight Committee

Senate Bill 393, a piece of legislation that addressed juvenile justice reform, was put into effect during 2016. A part of that bill created the Juvenile Justice Reform Oversight Committee. The Juvenile Justice Commission is actively involved with this committee. During 2017, the Committee continued to look at performance measures, utilization of risk assessments, opportunities for implementation of Family Functional Therapy, and interagency cooperation.

Robust System Change

Within the field of juvenile justice reform, conversations are occurring across the country about dual-status youth. Dual status youth are defined as youth who either move between or are involved in both the child welfare and juvenile justice systems. Youth suffering through abuse and neglect have a higher likelihood of becoming involved in delinquency (behavior that is considered a crime, some type of wrong doing, misbehavior). Youth in the juvenile justice system often have histories of chaotic family situations, substance use/abuse, mental health symptoms, and/or cognitive functioning deficits.

In West Virginia dual status youth (those involved in the child welfare and juvenile justice systems) are served by two state agencies: the DHHR Bureau of Children & Families (BCF) and DJS, which is within the Department of Military Affairs and Public Safety (MAPS). Dual-status youth move back and forth between these two agencies, which can produce confusion regarding case management responsibilities, fragmented communication, duplication of services, and interrupted or unmet service needs.

Although the complexion of the juvenile justice system has changed in the past twenty years nationally and in West Virginia, the primary goal and/or mission has remained the same – to provide rehabilitation interventions (social, emotional, mental, educational, vocational, and basic life skills) that will aide in preventing further misbehavior, while maintaining public safety and holding youth accountable for their actions.

As has been noted numerous times, community-based interventions are minimal for dual status youth. Thus, out-of-home interventions are the “go to treatment.” This could mean placement in either an in-state facility (shelter care, detention, group residential, or psychiatric residential treatment) or an out-of-state facility (group residential or psychiatric residential treatment).

The Juvenile Justice Commission believes that in West Virginia child welfare and juvenile justice systems reform is right at our fingertips. Each branch of our government has committed leaders and established groups that share a common goal to research, evaluate, and implement significant changes that could benefit the youth and families in these systems. With transparency, candor, and innovative thinking system(s) reform can happen. West Virginia has the expertise and the ability . . . and we don't shy away from hard work.

Robust change is needed. The Juvenile Justice Commission will continue, with our partners, to roll up our sleeves and pursue, encourage, and support system redesign. It is needed. It is necessary.

Our Journey Continues

Every day our courts, emergency shelters, and residential placement, detention, and correctional facilities struggle to find ways to provide safe and positive interventions to youth in their care, even when youth display significant emotional, mental, and behavioral needs. Unfortunately, reliance on the juvenile justice system to meet the special and unique needs of these juvenile offenders has increased and continues to do so. Daily, those facilities within the juvenile justice system, especially our detention or correctional facilities, face the challenge of providing individualized interventions while maintaining personal and public safety.

The Juvenile Justice Commission, from its inception, has focused on the betterment of youth within the system. The combination of children's mental health issues with our state's substance abuse epidemic touches every facet of the continuum in the juvenile justice system, and we want to do our part to assist stakeholders and providers in tackling these issues. Whether the Commission is a teammate or a watchdog, it shares in the concern and the responsibility for determining the pieces of the puzzle needed for a complete continuum within the juvenile justice system.

As the Juvenile Justice Commission continues its journey, we will encourage a comprehensive system that looks at each youth, individually. The time to stop failing our youth is now. Our children need the right intervention at the right time, the first time.

