

# West Virginia Supreme Court of Appeals



## Adjudicated Juvenile Rehabilitation Review Commission

2013 Annual Report

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# Adjudicated Juvenile Rehabilitation Review Commission

## 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 delinquent behavior. It is the Court's desire that West Virginia serve these youths 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 youths whom they sentence to the Industrial Home for Youth at Salem are given, through rehabilitative programs, every opportunity for success after their confinement.

Therefore, the facilities and the programs they include 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 sentencing adjudicated juveniles, 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.



# Adjudicated Juvenile Rehabilitation Review Commission Members

The Honorable Margaret Workman,  
Justice, WV Supreme Court of Appeals

The Honorable Gary Johnson, Judge  
Twenty-Eighth Judicial Circuit Court

The Honorable J. Lewis Marks, Jr.,  
Judge Fifteenth Judicial Circuit

The Honorable Jaymie G. Wilfong, Judge  
Twentieth Judicial Circuit

The Honorable Gail Boober, Magistrate  
Jefferson County

Former State Delegate, Bobbi Hatfield,  
Kanawha County

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

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

The Reverend Rue Thompson,  
Diocese of Wheeling-Charleston

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

The Reverend Matthew Watts,  
MJ Watts Ministries, Charleston, WV

Dr. James Phares, State Superintendent of  
Schools, WV Department of Education

Represented by:

Charles (Chuck) Heinlein, Deputy  
Superintendent, WV Department of  
Education

And

Fran Warsing, Superintendent, Office of  
Institutional Ed Programs, WV  
Department of Education

Nikki Tennis, Director  
Division of Children's Services,  
WV Supreme Court of Appeals

Steve Canterbury, Administrative  
Director, WV Supreme Court of Appeals

Cindy Largent-Hill, Juvenile Justice  
Monitor, WV Supreme Court of Appeals

## **West Virginia Supreme Court Administrative Office Staff:**

Kirk Brandfass, General Counsel

Tina Sevy, Director of Legislative Analysis

Tom Scott, Compliance Officer

April Harless, Public Information  
Specialist

Alicia Lauderman, Assistant Juvenile  
Justice Monitor

Lorri Stotler, Administrative Assistant to  
the Juvenile Justice Monitor & Business  
Court

## **Rights of Juveniles in Custody or Detention**

### **State Code 49-5-16a**

Under the West Virginia Code, juveniles in custody or detention have, at minimum, the following rights:

1. A juvenile may not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or forced solitary confinement.
2. A juvenile must be given the opportunity to participate in daily physical exercise.
3. A juvenile in a state facility may not be locked alone in a room, except for sleeping hours, unless unresponsive to reasonable direction and control.
4. A juvenile must be given access to daily showers.
5. A juvenile must be provided with his or her own clothing or individualized, clean clothing supplied by the facility.
6. A juvenile must be given constant access to writing materials and must be allowed to send mail without limitation, censorship or prior reading. The juvenile must also be able to receive mail without prior reading, although mail may be opened in the juvenile's presence to inspect it for contraband.
7. A juvenile may make and receive regular phone calls without being charged. He or she can also make and receive long distance phone calls to his or her family without charge at least once a week.
8. A juvenile has the right to receive visitors daily and on a regular basis.
9. A juvenile shall be given immediate access to medical care as necessary.
10. If a juvenile is in a juvenile detention facility or juvenile corrections facility, he or she must be provided access to education, including teaching, educational materials and books.
11. If a juvenile requests access to an attorney, he or she must be afforded reasonable access.
12. A juvenile has a right to a grievance procedure, including some mechanism in place for appeal.

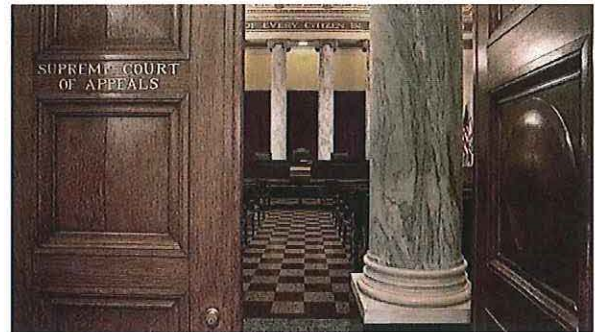
All juveniles must be given a copy of these and any other rights afforded to them upon admission to their respective facilities.

# Adjudicated Juvenile Rehabilitation Review Commission

## 2013 Annual Report

### History of the Commission

The Adjudicated Juvenile Rehabilitation Review Commission was established by Administrative Order of the West Virginia Supreme Court of Appeals in July 2011, by then-Chief Justice Margaret Workman. The purpose of the Commission was to examine the Division of Juvenile Services' operations plan and programs at the West Virginia Industrial Home for Youth in Salem and at the Kenneth "Honey" Rubenstein Juvenile Center in Davis. Although the initial scope of the Commission's mission was to focus on these two facilities, the Commission has since expanded its review to other facilities and programs operated or contracted by the Division of Juvenile Services and the Department of Health and Human Resources as it has deemed necessary.



It must be emphasized that any children ordered into secure facilities are wards of the courts. When youths are removed from their families/homes and are outside of their home communities detained in secure settings as a result of court orders, they remain a proper concern of the court system. In addition to the Court's commitment to youths in the juvenile justice system, issues of grave concern were brought to the attention of Justice Workman and other Supreme Court Administrative Staff. It was reported that residents were involved in physical altercations which produced significant safety concerns and hampered a rehabilitative environment.

Justice Workman organized a commission of members with varied professional backgrounds. The Commission met and launched a series of facility visits to the West Virginia Industrial Home and Rubenstein Center. The visits included resident interviews, facility tours, and staff interactions. The initial findings were concerning.



To effect change for the improvement of the juvenile justice system, the Commission desired a more structured approach. Justice Workman recommended (and the other Supreme Court Justices agreed) that a full-time employee was needed to monitor facilities, research national trends, investigate concerns, and present findings. The monitor would delve into the issues and study the entire juvenile justice system. The Responsibilities of the Monitor can be found on page 16.

## **Activities of the Commission**

### **I. Three Branch Approach**

From its creation, the goal of the Commission was to work cooperatively with ALL branches of government. Rehabilitating juveniles in the juvenile justice system is a responsibility shared by all branches of government. In the spirit of strengthening the relationship between the branches of government, a guest from either the Executive or Legislative Branch is invited to each quarterly meeting. This has proved to be an excellent opportunity for dialogue and information sharing.

During 2013, the Commission appreciated the time and information shared by the guests listed below.

- Stephanie Bond, Acting Director of the Division of Juvenile Services
- Karen Bowling, Cabinet Secretary for the Department of Health & Human Resource
- William Laird, State Senator, Co-Chairman of the Regional Jail and Correctional Facility Authority Legislative Interim Oversight Committee and Co-Chairman of "Our Children, Our Future"

### **II. Composition of the Commission**

Cindy Largent-Hill, Juvenile Monitor, and Tina Sevy, Director of Legislative Analysis, along with Dewayne Duncan, Executive Director with the Department of Education, met with newly selected State Superintendent of Schools, Dr. James Phares. Ms. Largent-Hill and Ms. Sevy shared the history, mission, and activities of the Adjudicated Juvenile Rehabilitation Review Commission. Dr. Phares shared a bit about his experience and the vision to improve the academic programs for juveniles in out-of-home situations. He agreed to provide representation on the Commission. Charles Heinlein, Deputy Superintendent, is representing the West Virginia Department of Education on the Commission. Having consistent Department of Education representation on the Commission has been invaluable.

An invitation was extended to former West Virginia Delegate Bobbi Hatfield to join the Commission. She has extensive legislative knowledge and is a trained nurse, which brings a medical perspective to the Commission. She graciously agreed and has been a valuable asset.

### **III. Multidisciplinary Team Legislation**

As the Commission and Juvenile Monitors, Cindy Largent-Hill and Alicia Lauderman visited facilities operated by the Division of Juvenile Services, several reoccurring items of concern appeared across all facilities. They included the following:

- Juveniles with flat sentences, after completing behavioral, educational, and therapeutic programming, had no mechanism to share accomplishments with the court. Program completion and positive conduct could result in a change in discharge planning and date.

- Juveniles, due to the location of the facility, had limited contact with family members. The two primary barriers were financial costs and distance. (This was an issue with the West Virginia Industrial Home for Youth in Salem but continues as youths are placed in programs around the state).
- Juveniles had little to no contact with counsel after disposition. This limited the availability for advocacy, opportunities to challenge any deficits in programming and discharge planning.
- Juveniles had no regular communication with the stakeholders related to their delinquency case and/or involved in their discharge planning (i.e. family, probation, DHHR, education, community programs).

Alicia Lauderman, West Virginia University extern and Commission employee, was especially concerned by these findings and submitted a white paper to her Lawyers and the Legislative Process Seminar entitled, "Multidisciplinary Process for Juvenile Status Offenders or Delinquents." The Commission was impressed with her discussion and proposed solutions, one of which was expanding the mandate of the multidisciplinary teams in West Virginia Code. Existing code puts the responsibility of multidisciplinary teams for delinquent youth in the Department of Health and Human Resources; however, youth in the custody of the Division of Juvenile Services do not have an assigned Youth Services worker (case manager).

As a result of Ms. Lauderman's discussion and the support of the Commission, House Bill 2780 was introduced and subsequently passed during the 2013 Legislative Session. This law allows for juveniles committed to the custody of the Division of Juvenile Services to have a quarterly review of their service plans by multidisciplinary teams. The law also states that if a juvenile has been detained in a detention facility operated by the Division of Juvenile Services for more than sixty days and does not have an active service plan; the Director of that respective facility may call a multidisciplinary team meeting to review the case. The responsibility for convening and facilitating these multidisciplinary team meetings is with the Division of Juvenile Services Case Manager. Further, this law calls for the availability of members to participate by videoconferencing. This bill passed on April 13, 2013, and went into effect ninety days from passage.

#### **IV. Division of Juvenile Services Reconfiguration**

With the formation of the Adjudicated Juvenile Rehabilitation Review Commission and because of its subsequent facility visits, staff conversations, resident interviews, and policy reviews, significant findings were discovered. There were serious concerns related to resident confinement, lack of programming, and treatment services, general living conditions, and access to academic and vocational programs. These concerns were shared with the Executive and Legislative Branch which responded positively. Some changes were put into place.



Shortly after the West Virginia Supreme Court approved the hiring of the Juvenile Monitor in early 2012, Mountain State Justice filed a lawsuit on behalf of two West Virginia Industrial Home for Youth residents (*State of West Virginia ex rel. D.L. and K.P. v Dale Humphreys, Director, Division of Juvenile Services, and David Jones, Superintendent of the West Virginia Industrial Home for Youth*). Testimony from a juvenile justice expert indicated that facilities like the West Virginia Industrial Home for Youth are antiquated. National trends indicate that smaller facilities are more effective in rehabilitating juveniles. Smaller facilities with smaller censuses prompt more of a relationship/interactive model for staff. Interaction, conversation, and relationships tend to encourage positive behaviors, build self-esteem, enhance self-awareness, and address individual treatment needs. All this helps youths make lasting behavior and attitudinal changes.

With that information in mind, and due to ingrained problematic cultural issues within the West Virginia Industrial Home, the Division of Juvenile Services decided to close that facility. Programs were dispersed throughout the agency's existing facilities.

The West Virginia Division of Juvenile Services, during the March 15, 2013, court hearing in front of the Honorable Omar Aboulhosn, publicly presented a plan to reconfigure its facilities and programs. Subsequently, the Governor proposed legislation calling for the closure of the West Virginia Industrial Home for Youth, including the Harriet B. Jones Treatment Center located within the grounds of the facility. The proposed legislation also called for the facility to be converted to an adult correctional facility. The Legislature approved the legislation with the effective date of July 1, 2013.

The West Virginia Industrial Home for Youth closed on July 1, 2013, and all juveniles within Building A, the main housing unit, were transferred to other juvenile facilities. This triggered a series of changes in of Juvenile Services facilities. needs of the population of the Center, which focused solely the residents of that facility as the Division of Juvenile plans on where to relocate and staffing concerns, Judge 2013 court hearing, ordered to expeditiously formulate a plan and move the residents of the Harriet B. Jones Treatment Center to another location no later than September 30, 2013. Subsequently, the Division of Juvenile Services developed a plan to relocate the residents of the Harriet B. Jones Treatment Facility and the result is outlined on the following page. Due federal regulations that prohibit youthful offenders from being within sight or sound of adult inmates and due to the fact that juveniles continued to reside at the former Harriet B. Jones Treatment Facility, the Division of Corrections was not able to move adult inmates to the new Salem Correctional Facility until after September 30, 2013. A map of the West Virginia Division of Juvenile Services facilities can be found on page 17.



- Kenneth “Honey” Rubenstein Juvenile Center, Tucker County (no change in mission): minimum secure; rehabilitation and treatment correctional center
- Donald R. Kuhn Juvenile Center, Boone County (change in mission): hardware secure; diagnostic, detention, and male commitment populations
- J. M. “Chick” Buckbee Juvenile Center, Hampshire County (change in mission): hardware secure; detention and male commitment populations
- Northern Regional Juvenile Center, Ohio County (change in mission): hardware secure; detention and female commitment populations; contracted facility with Youth Services Systems
- Sam Perdue Juvenile Center, Mercer County (change in mission): hardware secure; sex offender treatment
- James H. “Tiger” Morton Juvenile Center, Kanawha County (change in mission): hardware secure; detention and mental health treatment
- Gene Spadaro Juvenile Center, Fayette County (change in mission): staff secure with some hardware modifications; detention population
- Lorrie Yeager, Jr. Juvenile Center, Wood County (slight change in mission): hardware secure; detention population and a few designated assessment beds for committed population
- Vicki V. Douglas Juvenile Center, Berkeley County (no change in mission); hardware secure; detention population
- Robert L. Shell Juvenile Center, Cabell County (change in mission); staff secure; DHHR contracted; status offender population

## V. Monitoring of Facilities

The Commission, via the Juvenile Justice Monitors, kept a close watch on the Division of Juvenile Services facilities mission/program changes after the closing of the Industrial Home for Youth and Harriet B. Jones Treatment Center. They wanted to maintain a focus on the safety and rehabilitative needs of the youths in each of those facilities they were concerned about.

Concurrently, as a part of the Lawsuit *State of West Virginia ex rel. D.L. and K.P. v Dale Humphreys, Director, Division of Juvenile Services, and David Jones, Superintendent of the West Virginia Industrial Home for Youth*, both parties agreed there should be a monitoring mechanism to ensure compliance with the elements of the November 27, 2012, Agreed Order. Judge Aboulhosn appointed Cindy Largent-Hill to be the monitor. Approval was given for Alicia Lauderman to assist with the monitoring of the facilities and the compliance of the initial agreed and subsequent orders. Throughout the 2013 calendar year, multiple visits were made to all the facilities operated or contracted by the Division of Juvenile Services. Ms. Largent-Hill and Ms. Lauderman conducted approximately fifty-five visits; not including the multiple (several times/month) visits to West Virginia Industrial Home for Youth prior to its closing.

A monitoring form was established and used for each visit to ensure consistency. The current form can be found on page 18.

## **VI. Best Practice**

The National Center for Youth in Custody facilitated a webinar entitled, "Monitoring Conditions from the Inside and Out: Developing Comprehensive Quality Assurance and External Oversight Systems" on May 22, 2013. The presenter, Professor Michele Deitch, previously served as a federal court-appointed monitor of conditions in Texas prisons. Good correctional management demands internal accountability and external monitoring. Internal and external processes can actually complement each other. Professor Deitch promotes the use of oversight because it;

- Is essential for the safe and humane operation of institutions;
- Promotes transparency and public accountability;
- Provides administrators with objective feedback; and
- Improves operations by asking questions and forcing answers about policy, procedure and practice.

With the establishment of the Commission and subsequently the Monitor positions, West Virginia joined in those recommended best practice processes. Oversight by an external party encourages a credible and objective assessment of conditions and can serve as a check on the effectiveness of programming.

Throughout the year, the Monitors shared with the Commission their appreciation for the continuing collaborative relationship with the Division of Juvenile Services. Stephanie Bond, Acting Director, and the agency's Facility Administrators have been courteous and responsive during (announced and unannounced) visits. The Monitors have also found the facility staff to be cooperative, professional and respectful.

## **VII. Collaborative Efforts**

The Adjudicated Juvenile Rehabilitation Review Commission is represented on a number of formal groups related to youths in various national and state systems. This enhances the goal of the Commission to work across all three branches of state government. Some of those committees are listed below.

- Court Improvement Program Board
- Court Improvement Program Subcommittee – Youth Services Committee
- Court Improvement Program Subcommittee – Multidisciplinary Team Committee
- Court Improvement Program Subcommittee – Behavior Health Committee
- Department of Health and Human Resources Commission to Study Residential Placement of Children
- Three Branch Institute on Child Social and Emotional Wellbeing Core (with Judge Johnson) and Home Teams
- Three Branch Institute on Child Social and Emotional Wellbeing Capacity and Access Work Group

- Three Branch Institute on Child Social and Emotional Wellbeing Out-of-home Placement Work Group
- Department of Education – Education of Children in Out-of-Home Care Advisory Committee
- Department of Education – Reconnecting Youth Returning from Out-of-State Placement
- Our Children, Our Future Policy Symposium on Juvenile Justice Reform

Representing the Adjudicated Juvenile Rehabilitation Review Commission, Cindy Largent-Hill, with Alicia Lauderman, discussed the history, findings, and activities of the Commission with the groups or at the conferences below.

- State Advisory Group (with Division of Justice and Community Services): spoke on the background of the Commission and provided an update on the closing of West Virginia Industrial Home for Youth
- NASW Annual Spring Conference: presentation entitled “Juvenile Incarceration: What does it look like in West Virginia?”
- Alliance for Children Annual Conference: provided background on Commission and shared an overview of the changes in the Division of Juvenile Services with Acting Director Stephanie Bond
- West Virginia Regional Policy Workshop (Beckley Session): spoke about the Commission as it relates to Juvenile Justice Reform
- Court Improvement Program Training Conference: presentation entitled “Post –Salem Plan for Division of Juvenile Services Placements” with Scott Boileau, Alliance for Children and Stephanie Bond, Division of Juvenile Services
- Court Improvement Program Training Conference: presentation entitled “Rules and Resources for Youths Aging Out in Custody” with Stephanie Bond, Division of Juvenile Services; Alicia McIntire, Department of Health and Human Resources; Jane Moran, Attorney; and Robert Noone, Attorney
- Circuit Judges Education Conference: provided an update on juvenile justice issues, role of the Monitor and the realignment of the Division of Juvenile Services with Stephanie Bond
- Probation Conference: provided background on Commission and role of Monitor
- Children’s Justice Task Force: presentation entitled “Post Salem Plan for DJS Placements and Treatment Programs” with Stephanie Bond, Division of Juvenile Services; Trudi Blaylock, PSI-Med; and Scott Boileau, Alliance for Children

### **VIII. Monitor as a Resource**

As the responsibilities of the monitor were being established, it was desired that the Monitor serve as a liaison for circuit court judges, providing information on the facilities, programs, care and treatment of those juveniles in their courts. Judges are challenged with far ranging issues like young adolescents who need services, teens struggling with mental health symptoms, and older youths transitioning from the system into the community. Judges are responsible for public safety, must consider all the factors influencing the behaviors of a juvenile, and determine the most appropriate sanction.

Ms. Largent-Hill, Juvenile Monitor, serves as a resource to judges as they navigate through the juvenile justice system.

### **What's next?**

During the time that the earlier referenced court action has been pending, Justice Workman has been assiduous in not participating in Commission discussions relating to the litigation in order to assure judicial independence should the case or any portion thereof be appealed to the Supreme Court of Appeals.

The court action brought by Mountain State Justice against the Division of Juvenile Services was settled and resolved by Order entered by Judge Aboulhosn on January 21, 2014. In that order, the court directed that the Commission continue to monitor compliance with the agreed resolutions of all issues so long as the Commission determines such monitoring is necessary; and directed that the parties could return to court if necessary to ensure compliance with the agreements. Because the Commission itself has now been given a role in monitoring post-litigation activity, Justice Workman has decided to step away from direct participation as Chairwoman of the Commission, and Judge Omar Aboulhosn will rejoin the Commission as its Chairman. A copy of Section V, Continued Monitoring, can be found on page 12.

The Commission appreciates the hard work and commitment demonstrated by the Executive Branch, and especially the diligence of Acting Director Stephanie Bond, during the closing of the Industrial Home facility and subsequent realignment of the remaining facilities. A steady progress toward a positive culture and rehabilitative environment has been observed throughout the facilities within the Division of Juvenile Services. It seems that the initial (facility-related) findings are diminishing and, can be formally monitored by way of regular facility visits.

While the initial findings caused Commissioners great concern, there were additional factors to consider that were outside of the authority of the Division of Juvenile Services (i.e. inadequate attorney representation for post-dispositional juveniles, flat sentences). Other struggles within the system include post-dispositional teens aging out/discharging with little or no supports or resources, younger adolescents involved in dangerous behaviors requiring out-of-home interventions, dependence on out-of-home interventions due to lack of options, and the standards to effectiveness.

December 2013 suggestion of Justice Commission agreed form sub-focus on these The sub-committees formalize commitment, stimulate dialogue, and promote activity.



community-based need for qualitative measure program During the meeting, at the Workman, the by consensus to committees that will important issues. will serve to

## V. CONTINUED MONITORING

The Court recognizes that circuit courts in this State maintain a special relationship with juveniles under their jurisdiction. “A person under the age of eighteen years who appears before the circuit court in proceedings under this article shall be considered a ward of the court and protected accordingly.” W. Va. Code § 49-5-4. Unlike the adult correctional system, courts continue to be informed about the juveniles under their jurisdiction, both while the juvenile is committed to the Division of Juvenile Services, and even after the juvenile has been discharged from DJS custody<sup>16</sup>. See, W. Va. Code §§ 49-5D-1 to -8 and 49-5-20 respectively.

Consistent with the role and duty of the courts in the juvenile justice system is the need for information regarding the conditions at the various juvenile facilities, as well as the programming and services being provided by the Respondents to promote the rehabilitation of juveniles. While many positive policy changes have resulted from the instant litigation, there continues to be setbacks and, at times, even resistance to the changes, despite the Respondents’ implementation of those new policies. Many changes have occurred over a relatively short period of time (in great measure due to the cooperative spirit of all involved) but many of these improvements are not yet fully ingrained into the practices of the facilities. Further, due to the

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<sup>16</sup> For example, routinely many courts around the state, including the undersigned, will hold review hearings on juveniles placed in DJS custody every 90 days to check on the progress of a juvenile’s rehabilitation and education.

continued transitioning within DJS and its facilities, it is apparent to the Court that there is a need for continued monitoring to ensure that the changes as agreed to by the parties continue to progress, to oversee the practices by the Respondents herein, and to work towards improving the potential outcomes of youths committed to facilities operated by the Respondents. Fortunately for the Court and the parties herein, the Court has had the services of Cindy Largent-Hill, and her staff who have provided the monitoring to the Court and the parties. As the parties are aware, Ms. Largent-Hill also works for the Supreme Court's Adjudicated Juvenile Justice Rehabilitation Commission. By having Ms. Largent-Hill as the Court's monitor, this Court has saved the parties tens of thousands of dollars in additional costs by not having to pay for monitoring services since Ms. Largent-Hill and her staff is already paid by the Administrative Office of the Supreme Court of Appeals. Ms. Largent-Hill and her staff have proved instrumental and helpful to this Court during these proceedings. Furthermore, while this case is coming to an end, the Supreme Court's Adjudicated Juvenile Justice Rehabilitation Commission work is not. While the Commission's goals and work are much larger than the issues that were before this Court, there is no question that the issues before this Court are matters within which the scope of the work that the Commission is undertaking, 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. By utilizing the Supreme Court's Adjudicated Juvenile Justice Rehabilitation Commission to continue the monitoring, once again

this Court is saving the parties untold tens of thousands of dollars versus the cost to the parties of having a different monitor selected to continue the monitoring contemplated by this Court's Order herein. Of course there is nothing that prevents the parties from going back to Court should either or both feel it necessary to reopen this litigation in the future. The duration and scope of the monitoring shall continue for as long as the Supreme Court's Adjudicated Juvenile Justice Rehabilitation Commission deems such monitoring necessary.

The Court cannot commend the parties enough of their cooperative rapport shown throughout this case has led to quick resolution of many of the issues initially brought to the Court's attention and has further led to greatly needed improvements to the juvenile justice system in a short period of time. Based on the rapport that has developed over the last several months during the litigation of this case, the Court recommends that the parties should continue to exchange information and updates concerning the development of the Division's transitioning evident in this case. These issues continue to be addressed by the Commission which may prevent further litigation or the reopening of this case, so long as the parties maintain the course that they have taken since the beginning of this proceeding. For example, the parties have been exchanging emails regarding room detentions that have occurred. This Court believes that those emails should continue as they are helpful to the parties, to the monitor and also reflect well upon DJS that they are complying with the procedures agreed to by the parties.<sup>17</sup>

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<sup>17</sup> However, DJS will no longer have to send those notices to the Court, but should continue to send them to Petitioners' counsel and to Ms. Largent-Hill, the Court's monitor.

## **In closing . . .**

It is the desire of the Adjudicated Juvenile Rehabilitation Review Commission to not only establish a monitoring mechanism for the courts, but to also establish a mechanism that would delve into the juvenile justice system on a more comprehensive level. Juveniles who come to the attention of the court system are typically an underserved, difficult and challenging population. In the juvenile justice system, the focus and function should be on rehabilitating youthful offenders; with the goal of reintegrating offenders as productive members of society. The clients within in this system are children; teenagers who are still growing and developing. And, these clients will return home and return to the community. It is not only our obligation, but it is our duty to take on the challenge of restorative justice for juveniles.



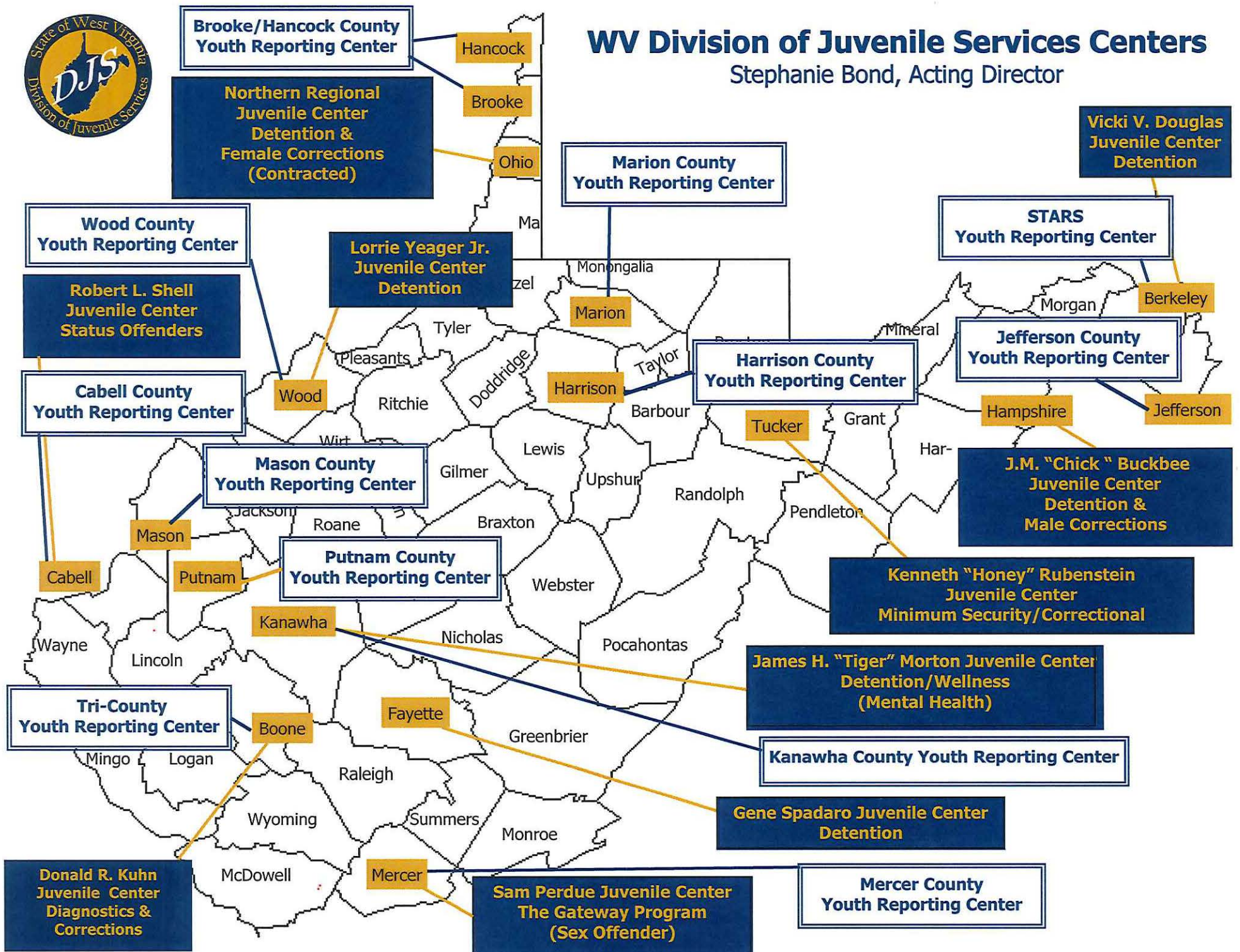
## **Responsibilities of the Juvenile Justice Monitor:**

- identify systems issues for juveniles in the court system;
- review and evaluate treatment and rehabilitative services;
- compare specific treatment and rehabilitative services with the national standards of care;
- ensure that treatment programs are evidence-based and offer outcomes measures;
- review and evaluate policies and standard operating procedures for the facilities operated by and/or contracted by the Division of Juvenile Services and the Department of Health and Human Resources;
- ensure compliance and implementation of appropriate policies and procedures;
- conduct regular site visits to designated facilities at a minimum of twice per month, interviewing staff members, reviewing write-ups of residents, and interacting with residents;
- advocate for the rights of juveniles in the justice system;
- review agency investigations to ensure a fair and impartial process;
- investigate complaints and/or issues of concern;
- ensure a coordinated and comprehensive planning process for successful reentry and transition into the juvenile's home community;
- act as a liaison for the circuit judges to the facilities so that judges can be made aware of issues regarding the juveniles' care, supervision, and treatment;
- work with the Department of Education's Office of Institutional Education to ensure that appropriate, meaningful, academic services are being provided that meet national standards;
- represent the Commission as directed by the Commission and/or the Court at various forums or with various initiatives as they materialize; and
- report all of these activities – and any others as they come up – to the Commission at each meeting.



# WV Division of Juvenile Services Centers

Stephanie Bond, Acting Director



**Court Monitor** \_\_\_\_\_

**Facility:** \_\_\_\_\_

**Census:** \_\_\_\_\_

**Date:** \_\_\_\_\_

General Issues	Per Court Order	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.)	On unit programming/Written schedule posted (1. & 2.)		
Unit has an hourly detailed activity schedule & it is followed (A.2.)	Hourly programming posted schedule (2. & 3.)		
Outdoor recreation is offered 1 hour/weekdays and 2 hours/weekends (A. 4.)	Organized daily outside recreation (i.e. sports and positive organized activities) (4)		
Resident Handbook (D. 19.)	Handbook-range of potential sanctions for each violation (19.)		
Food is not w/held due to punishment (H. 47. a)			
Residents talk during meals (H. 48)			
Residents are not cuffed/shackled during movement on unit (H. 47. b)			
No random strip searches (H. 49)			
Visitation is available daily (H. 52. a)	Visitation programming (52. d & (52. e)		
Visitation Coordinator (H. 52. c)	No visitation coordinator actively performing functions (52. c)		
Visitation area & plan (H. 52 d & e)	Visitation plan with specifics (52. e)		
Prison clothing changes	Slacks and polo shirts – no prison garb (H. 50.)		

Shoes provided include athletic, good quality (not flops) (H. 51.)			
Girls' hair can touch neck (H. 50.c.)			
Mattress, pillow and clothing storage (H. 53)	Room Accommodations (53.)		
Bathroom Access: Toilet at night; toilet paper (H. 54.a. & b.)			
<b>Room Confinement</b>			
	NO ROOM CONFINEMENT (whether doors open or closed) No LOH, no CO sending to room; no euphemisms such as EBT; no lockdowns; not sending to room before & after meals) (A.1.)		
Incidents are documented – with reason, staff initiating, duration (B. 7.)			
Access to daily shower, large muscle recreation, similar food, education (B. 8.)			
Medical and/or mental health talked with resident daily (face/face; not thru door) (B.9.)			
<b>Time Out</b> not to exceed 4 hours (out of control) (B.10.)	Time out only while not in control (not in control means actively engaged in physically disruptive conduct at that moment (10. & 11.)		
Time Out exceeding 4 hours approved by Admin. (B.11.)			
Confinement due to major infraction not to exceed 3 days (B. 12.)			

Due process was used (B.13.)			
<b>Ad Seg</b> (sparingly) not to exceed 10 days; direct order & detailed reasons available in writing (B. 14.)			
Resident on Ad Seg can verbally explain why and process to be removed (B. 15.)			
Ad Seg exceeding 10 days involves C'Office (B. 16.)			
<b>Modified Procedures for Safety</b>			
	Per May 3, 2013 Order: To provide for the safety and protection of residents & staff; when resident is physically aggressive & is NOT amenable to reasonable direction & control		
Immediate sanction of room confinement up to 3 days	Severe cases up to 10 days – determined by due process		
Due Process hearing held within 24 hours	As outlined in November 27, 2012 Order		
Ad Seg procedures should be followed for room confinement beyond 3 days	As outlined in November 27, 2012 Order		
Segregation beyond 10 days; follow established Ad Seg procedures			
Mechanical restraints used for resident movement in facility	Determined by Supt/Director; only as a SAFETY measure		
Written notice is made	Forwarded to Monitor with explanation		
Immediate notice to court, monitor & parties' counsel; within 24 hours	Every time the procedures outlined in May 3 Order are implemented		

<b>Suicidal Procedures</b>			
Protocol was followed as outlined.	Order dated Jan 21, 2014		
<b>Disciplinary Due Process</b>			
Resident received written notice of violation 24 hours before hearing (no punish prior to) (D. 21.)	Receive and retain written notice of rule violation at least 24 hour prior to hearing (21)		
Resident was heard during hearing & has witnesses (D. 22.)	Hearing – opportunity to present witnesses (22)		
Resident received written decision with reasons and sanctions; based upon evidence (D. 23. 24.)	No prehearing sanctions (25) Written decision – nature & duration of sanctions (24) Written decision based only on evidence at hearing (24)		
Right to appeal decision (D. 26.)	Right to appeal (26)		
Tracking process (D.27.)			
<b>Grievance Process</b>			
Access to process – locked box; handled by Supt/Director (E. 29 30.)			
Receive written copy of decision (E. 32.)			
Tracking process (E. 33.)			
<b>Other</b>			
Mail: scanned in front of resident; if censored resident notified (F. 35.)			
Resident receive 10 stamps/month; delivered immediately; photos permitted; receive writing supplies (F. 39. & 40. 41. & 42.)			
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.)			
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**Items to be tracked for Adjudicated Juvenile Rehabilitation Review Commission**

<b>MDT Meetings</b>			
Was MDT held prior to placement (other than detention)	N/A		
Quarterly MDT's while in placement	N/A		
MDT was pre-scheduled; meeting conducted with stakeholders invited and/or present	N/A		

<b>Attorney Contact</b>			
Resident spoke with attorney prior to hearing	N/A		
Resident has had contact with attorney since placement (detention, residential)	N/A		

**Additional Comments**

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Submitted by Cindy Largent-Hill, Monitor  
 Form revised February 10, 2014



**The following pages provide capacity information collected from weekly census reports provided by the Division of Juvenile Services.**

**Please Note:**

**The West Virginia Division of Juvenile Services implemented a new offender tracking system during the calendar year 2013. While the agency continues to be extremely accommodating and timely in providing information to the Adjudicated Juvenile Rehabilitation Review Commission, we are not certain about the accuracy of some of the information. Due to time constraints and our desire to distribute this report during the first quarter of 2014, it has been decided to not include offender information for the following categories in this report.**

- 1. The number of committed female residents and their subsequent charges.**
- 2. The number of committed 17 years old and younger male residents and their subsequent charges.**
- 3. The number of committed 18 years old (at admission) and older residents and their subsequent charges.**

## WV DJS FACILITY CAPACITY PERCENTAGES

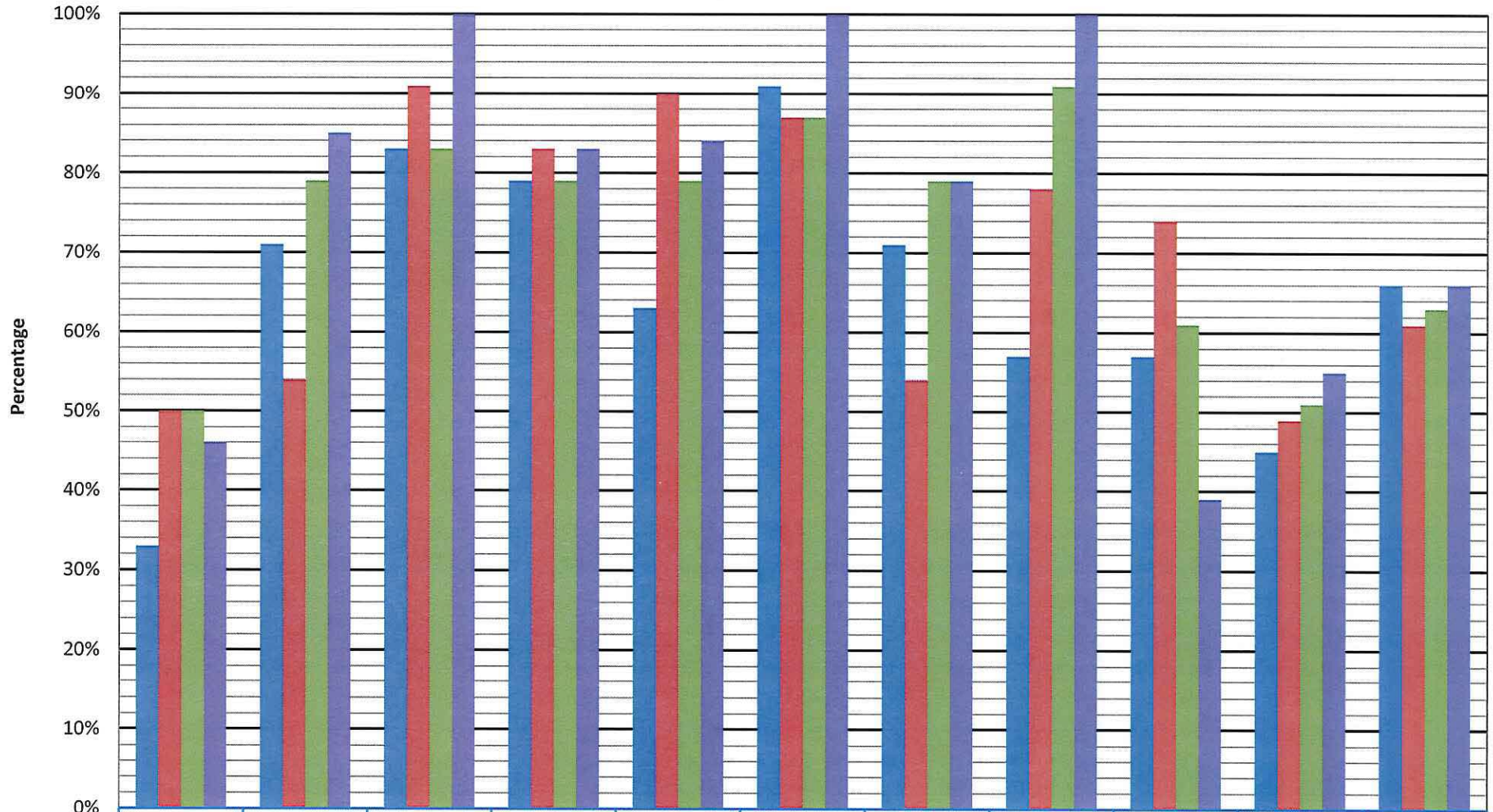
January through April 2013

FACILITY		Total Stu	Jan	Total Stu	Feb	Total Stu	Mar	Total Stu	April	Total Capacity %
<b>Chick Buckbee</b>										
Capacity 24	Commitment Detention	8	33.3%	4 8	50.0%	3 9	50.0%	6 5	45.8%	<b>44.8%</b>
<b>DRK</b>										
Capacity 48	Diagnostic Detention	22 12	70.8%	17 9	54.2%	26 12	79.2%	32 9	85.4%	<b>72.4%</b>
<b>Gene Spadaro</b>										
Capacity 23		19	82.6%	21	91.3%	19	82.6%	23	100%	<b>89.1%</b>
<b>Lorrie Yeager</b>										
Capacity 24		19	79.2%	20	83.3%	19	79.2%	20	83.3%	<b>81.2%</b>
<b>Northern Regional</b>										
Capacity 19		12	63.2%	17	89.5%	15	78.9%	16	84.2%	<b>79.0%</b>
<b>Robert Shell</b>										
Capacity 23		21	91.3%	20	87.0%	20	87.0%	23	100%	<b>91.3%</b>
<b>Sam Perdue</b>										
Capacity 24		17	70.8%	13	54.2%	19	79.2%	19	79.2%	<b>70.9%</b>
<b>Tiger Morton</b>										
Capacity 23		13	56.5%	18	78.2%	21	91.3%	23	100%	<b>81.5%</b>

Continued.....

<b>Vickie Douglas</b>	<b>Total Stu</b>	<b>Jan</b>	<b>Total Stu</b>	<b>Feb</b>	<b>Total Stu</b>	<b>Mar</b>	<b>Total Stu</b>	<b>April</b>	<b>Total Capacity%</b>
Capacity 23	13	56.5%	17	73.9%	14	60.9%	9	39.1%	<b>57.6%</b>
<b>Rubenstein Center</b>	<b>Total Stu</b>	<b>Jan</b>	<b>Total Stu</b>	<b>Feb</b>	<b>Total Stu</b>	<b>Mar</b>	<b>Total Stu</b>	<b>April</b>	<b>Total Capacity %</b>
Capacity 84	38	45.2%	41	48.8%	43	51.2%	46	54.8%	<b>50.0%</b>
<b>Harriet B. Jones</b>	<b>Total Stu</b>	<b>Jan</b>	<b>Total Stu</b>	<b>Feb</b>	<b>Total Stu</b>	<b>Mar</b>	<b>Total Stu</b>	<b>April</b>	<b>Total Capacity %</b>
Capacity 38	25	65.8%	23	60.5%	24	63.2%	25	65.8%	<b>63.8%</b>

## WV DJS FACILITY CAPACITY PERCENTAGES (Jan-April 2013)



	Chick Buckbee	Donald R. Kuhn	Gene Spadaro	Lorrie Yeager	Northern Regional	Robert Shell	Sam Perdue	Tiger Morton	Vickie Douglas	Rubenstein Center	Harriet B. Jones
■ January	33%	71%	83%	79%	63%	91%	71%	57%	57%	45%	66%
■ February	50%	54%	91%	83%	90%	87%	54%	78%	74%	49%	61%
■ March	50%	79%	83%	79%	79%	87%	79%	91%	61%	51%	63%
■ April	46%	85%	100%	83%	84%	100%	79%	100%	39%	55%	66%

## WV DJS FACILITY CAPACITY PERCENTAGES

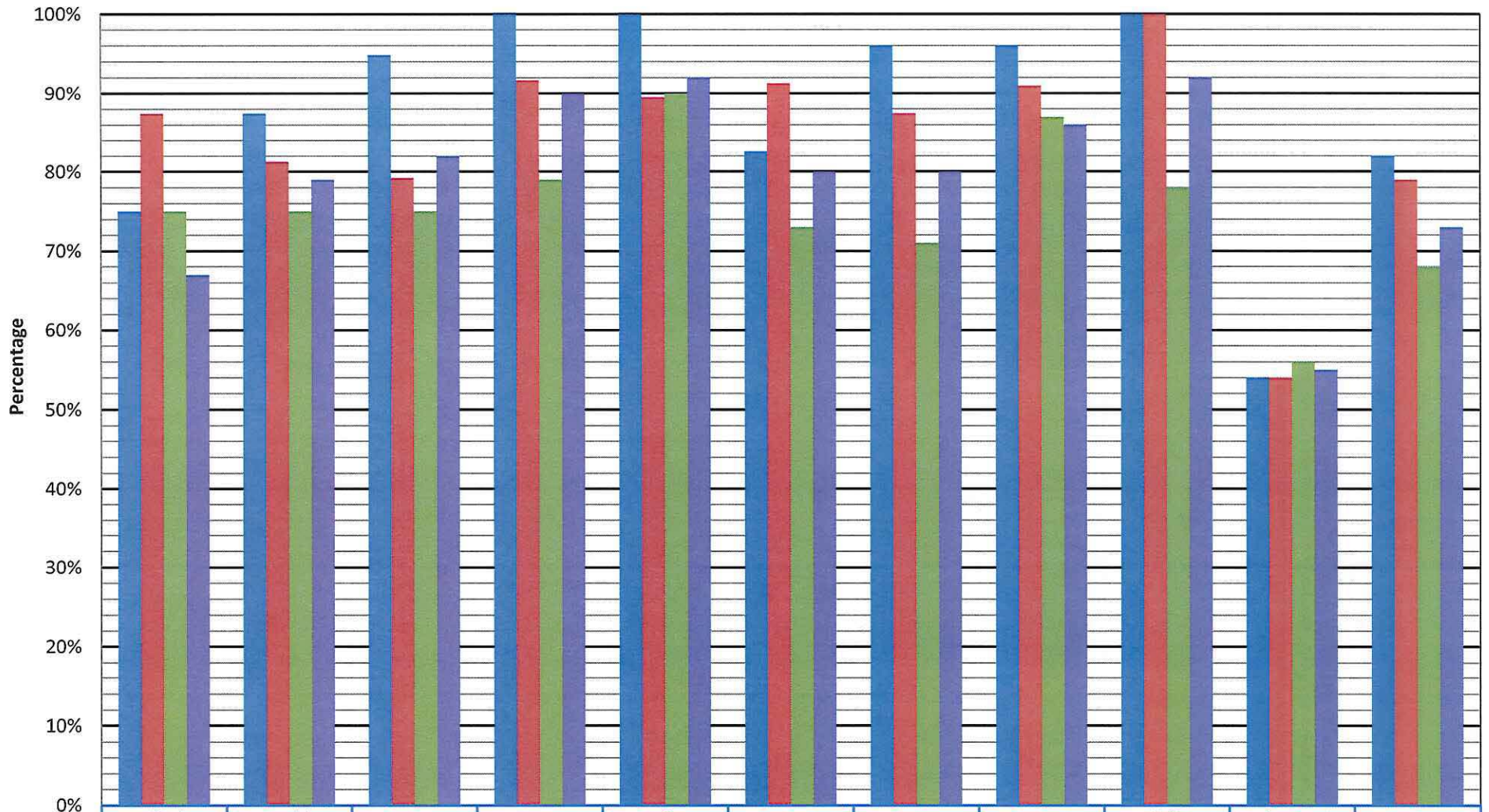
May through August 2013

FACILITY		Total Stu	May	Total Stu	June	Total Stu	July	Total Stu	August	Total Capacity %
<b>Chick Buckbee</b>										
Capacity	Commitment	17	75.0%	21	87.5%	17	75.0%	16	66.7%	76.1%
24	Detention	1		0		1		0		
<b>DRK</b>										
Capacity	Commitment	0	87.5%	1	81.3%	4	75.0%	5	72.9%	79.2%
48	Detention	16		16		12		10		
	Diagnostic	26		22		20		20		
<b>Gene Spadaro</b>										
Capacity	Commitment	0	94.8%	1	79.2%	1	75.0%	2	79.2%	82.1%
24	Detention	23		18		17		17		
<b>Lorrie Yeager</b>										
Capacity	Commitment	6	104.2%	6	91.7%	3	79.2%	1	83.3%	89.6%
24	Detention	19		16		16		19		
<b>Northern Regional</b>										
Capacity	Commitment	5	100%	6	89.5%	9	89.5%	8	89.5%	92.1%
19	Detention	14		11		8		9		
<b>Robert Shell</b>										
Capacity	Commitment	1	82.6%	3	91.3%	3	73.9%	3	73.9%	80.4%
23	Detention	12		13		7		7		
	CHANGE	6		5		7		7		
<b>Sam Perdue</b>										
Capacity	Commitment	0	95.8%	0	87.5%	3	70.8%	3	66.7%	80.2%
24	Detention	23		21		14		13		
<b>Tiger Morton</b>										
Capacity	Commitment	6	95.7%	6	91.3%	5	87.0%	6	69.6%	85.9%
23	Detention	16		15		15		10		

Continued on Next Page.....

Vickie Douglas		Total Stu	May	Total Stu	June	Total Stu	July	Total Stu	August	Total Capacity%
Capacity 23	Commitment	2	100%	2	100%	1	78.3%	2	87.0%	91.3%
	Detention	21		21		17		18		
Rubenstein Center		Total Stu	May	Total Stu	June	Total Stu	July	Total Stu	August	Total Capacity %
Capacity 84		45	53.6%	45	53.6%	47	56.0%	46	54.8%	54.5%
Harriet B. Jones		Total Stu	May	Total Stu	June	Total Stu	July	Total Stu	August	Total Capacity %
Capacity 38	Wellness	8	81.6%	7	79.0%	7	68.4%	7	63.2%	73.1%
	SOS	23		23		19		17		

## WV DJJ FACILITY CAPACITY PERCENTAGES (May - August 2013)



	Chick Buckbee	Donald R. Kuhn	Gene Spadaro	Lorrie Yeager	Northern Regional	Robert Shell	Sam Perdue	Tiger Morton	Vickie Douglas	Rubenstein Center	Harriet B. Jones
■ May	75%	88%	95%	104%	100%	83%	96%	96%	100%	54%	82%
■ June	88%	81%	79%	92%	90%	91%	88%	91%	100%	54%	79%
■ July	75%	75%	75%	79%	90%	73%	71%	87%	78%	56%	68%
■ August	67%	79%	82%	90%	92%	80%	80%	86%	92%	55%	73%

**WV DJS FACILITY CAPACITY PERCENTAGES**  
**September through December 2013**

FACILITY		Total Res.	Sept.	Total Res.	Oct.	Total Res.	Nov.	Total Res.	Dec.	Total Capacity %
<b>Chick Buckbee</b>										
Capacity 24	Commitment	12	54.2%	10	54.2%	7	70.8%	7	66.7%	<b>61.5%</b>
	Detention	1		3		10		9		
<b>DRK</b>										
Capacity 48	Commitment	7	70.8%	10	85.4%	10	77.1%	9	81.2%	<b>78.6%</b>
	Detention	10		11		6		8		
	Diagnostic	17		20		21		22		
<b>Gene Spadaro</b>										
Capacity 24	Commitment	2	41.7%	1	95.8%	0	79.2%	1	70.8%	<b>71.9%</b>
	Detention	8		22		19		16		
<b>Lorrie Yeager</b>										
Capacity 24	Commitment	1	83.3%	2	100%	4	95.8%	5	87.5%	<b>91.7%</b>
	Detention	19		22		19		16		
<b>Northern Regional</b>										
Capacity 19	Commitment	11	89.5%	11	100%	11	121%	10	105.3%	<b>104.0%</b>
	Detention	6		8		12		10		
<b>Robert Shell</b>										
Capacity 23	Commitment	2	65.2%	4	69.6%	0	91.3%	0	73.9%	<b>75%</b>
	Detention	9		7		3		2		
	STATUS	4		5		18		15		
<b>Sam Perdue</b>										
Capacity 24	Commitment	7	45.8%	15	75.0%	17	70.8%	15	62.5%	<b>63.5%</b>
	Detention	4		3		0		0		
<b>Tiger Morton</b>										
Capacity 23	Commitment	7	78.3%	7	78.3%	8	82.6%	9	82.6%	<b>80.5%</b>
	Detention	11		11		11		10		

Continued.....

Vickie Douglas		Total Res.	Sept.	Total Res.	Oct.	Total Res.	Nov.	Total Res.	Dec.	Total Capacity%
Capacity 23	Commitment	1	87.0%	0	74.0%	0	56.5%	0	43.5%	65.3%
	Detention	19		17		13		10		
Rubenstein Center		Total Res.	Sept.	Total Res.	Oct.	Total Res.	Nov.	Total Res.	Dec.	Total Capacity %
Capacity 84		51	60.7%	55	65.5%	56	66.7%	44	52.4%	61.3%
Harriet B. Jones		Total Res.	Sept.	Total Res.	Oct.	Total Res.	Nov.	Total Res.	Dec.	Total Capacity %
Capacity 38	Wellness	5	57.9%	0	0		0		0	N/A
	SOS	17		0						

## WV DJS FACILITY CENTER CAPACITY PERCENTAGES (September - December 2013)

