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LDAA SUPPLEMENTAL "POSITION PAPER" ON JUVENILE JUSTICE REFORM

April 2010

The following views represent the collective opinion of Louisiana's elected District Attorneys and is the third position paper concerning matters related to Juvenile Justice in our State and the efforts to implement reform thereof. We suggest that these views should serve as a guide for the future direction of Juvenile Justice Reform in Louisiana as did our second position paper in 2007 (see attached).

The LDAA's initial position paper was issued in response to the Recommendations of the Juvenile Justice Commission Advisory Board, and was adopted by the LDAA Board of Directors on January 22, 2003. It is also attached, and as pertinent hereto, observed as follows:

"The information gathered by the JJC Advisory Board has shown that there are significant differences from parish to parish, in terms of options available to juvenile judges. Some parishes have locally-funded detention centers; others have locally-funded probation officers, with manageable caseloads, who have ready access to locally-funded services. Many other parishes, and particularly rural parishes, are entirely dependent upon state-funded services. Judges in such parishes often view their choice as a limited one—secure-care custody or the 'functional equivalent of unsupervised probation'."

As we enter 2010, our member District Attorneys believe that Louisiana's juvenile justice system is still in dire need of the following: 1) more community-based services for those juvenile offenders who do not require long-term secure care or other out-of-home placement; 2) more intensive probation resources; and 3) local or regional detention centers for those parishes which have no such facilities, and for whom nearby detention facilities are so often unavailable. Debate will continue as to whether individual juvenile offenders should be supervised and receive appropriate services in their communities or removed from their homes and placed in OJJ custody, whether secure or non-secure. We have learned, however, that in a recessionary environment, the community-based services are among the first budget cuts, while "brick and mortar" facilities, and the services provided therein, remain.

Additionally, seven years after the enactment of the Juvenile Justice Reform Act of 2003, we are "playing catch-up" in the construction of the regional residential facilities which are so vital to the success of Missouri-style reform. These small-scale facilities, which place the juvenile offenders in groups of 12 to 14, with a high staff-to-offender ratio, in a therapeutic environment, have been the critical component in reducing recidivism in the State of Missouri. They are also crucial to our success, and have been a key missing component in our hope to reduce recidivism among those violent and/or chronic offenders who require secure care. It is also important that these facilities be strategically located throughout the state, as in Missouri, so that kids can be placed close to home to facilitate visitation and the involvement of families in the therapeutic process.

Currently, many of our judicial districts have few if any community-based services to offer as alternatives to secure care placement. It will be critical to the success of Juvenile Justice Reform that the State fund and develop evidence-based "best practices" programs such as Multisystemic Therapy and Functional Family Therapy to deliver the services which are so desperately needed in most communities. If these "best practices" programs are unavailable, or fail to meet the needs of a particular community, it will be equally critical that the State provide support and guidance for other promising programs that are outcome based and demonstrate the potential to be developed into "best practices" programs through local initiatives, such as the Prosecutor's Early Intervention Program in the 16th Judicial District. OJJ, DSS, DHH, and other entities which fund such programs, must require an evaluation component, that each program report its outcomes, and funding should be terminated for those programs found to be ineffective.

Over recent months, the OJJ and Dr. Mary Livers have been subjected to a constant "drumbeat of criticism." Much of the criticism stems from events which occurred in the past under prior OJJ management. Dr. Livers was selected to lead OJJ in October, 2008. Prior to her selection, the number of juvenile offenders in secure care had already been reduced from approximately 2,000 to approximately 500. At that time no Missouri-style regional residential facilities had been opened and none had received legislative approval for future construction; further, none of the existing secure facilities had been converted to a Missouri-style therapeutic environment.

Under Dr. Livers' leadership, OJJ has received legislative approval for a 72 bed Missouri-style regional residential facility to serve Southwest Louisiana, which will be located in St. Landry Parish. Legislative approval has also been granted for a 24 bed therapeutic facility, including substance abuse treatment, for both male and female juvenile offenders, adjacent to Swanson in Monroe. The most recent announcement, and perhaps the most significant short term, is the planned conversion in early 2011 of an existing DHH facility, Columbia Community Residential and Employment Services, into a moderate secure, 48 bed juvenile facility for use by OJJ.

The closure of Jetson was ordered in 2008, prior to Dr. Livers' selection in October of that year. This legislation was enacted despite demonstrable evidence that Jetson's closure would serve to aggravate an already critical shortage of secure beds, resulting from the failure to construct Missouri-style regional residential facilities at the same time that existing secure-care facilities were downsized or closed. Dr. Livers took a widely publicized public relations "hit" when she suggested that the closure of Jetson was unwise, and that it should be saved and converted to a Missouri-style facility.

The legislature later gave its approval to Dr. Livers' recommendation, and Missouri-style reform is now being implemented both at Jetson and at Bridge City. Staff at all three secure-care facilities have received training from their counterparts in Missouri, on the change in culture which must occur in order to provide a therapeutic environment for juvenile offenders in Louisiana; further, there are continued efforts to improve conditions at Swanson, and to implement those aspects of Missouri-style reform which are feasible in view of its current, transitional role as an "overflow facility."

The LDAA would further point out that, from the beginning of the Juvenile Justice Reform process, the need for a uniform, research-based assessment tool has been a missing and sorely-needed piece for the appropriate placement of juvenile offenders. Recently, after much study and preparation, the SAVRY (Structured Assessment of Violence Risk in Youth) assessment tool is being implemented statewide under Dr. Livers' leadership. This well-established tool will provide our juvenile judges with vital information to better determine the appropriate placement of juvenile offenders within the OJJ system. The use of the SAVRY will also assist in the development of a more accurate estimate of needed secure beds, in addition to offering an independent outcome measure for the state which will illustrate increases and decreases in risk and protective factors to be targeted by state contracted providers. Many OJJ staff members have been trained in the use of the SAVRY, and Dr. Livers is committed to completing the training in early 2010.

Dr. Livers has also championed the use of therapeutic interventions, such as Functional Family Therapy and Multisystemic Therapy. OJJ has supported the training and implementation of five teams of Functional Family Therapists. These types of evidence-based community interventions are essential to the long-term viability of Juvenile Justice Reform in Louisiana. Dr. Livers has affirmed to the LDAA and to the many partners in Juvenile Justice Reform that evidence-based prevention and community-based services are keys to the success of Juvenile Justice Reform. The LDAA endorses the use of such programs and services as a part of a complete system of graduated sanctions, for juvenile offenders in diversion, for adjudicated offenders on probation, and for those returning to our communities from secure care.

The LDAA member District Attorneys believe that the lack of mental health facilities and the shortage of community-based treatment must be addressed for there to be effective Juvenile Justice

Reform. Approximately 35-40% of juvenile offenders in secure care have been diagnosed with severe mental illness, and as many as 75% have a diagnosable substance abuse disorder. Addressing the needs of these youth occupies a disproportionate share of staff time, and consumes a disproportionate share of OJJ resources. The juvenile justice system and the adult criminal justice system have served as "dumping grounds" for many with severe mental illness and unaddressed substance abuse disorders since the de-institutionalization of our mental health care delivery system approximately 30 years ago. Unfortunately, our public mental health care system remains underfunded and understaffed, so that our Courts lack suitable alternatives to incarceration for those who cannot afford, or otherwise fail or refuse to seek private care.

If suitable facilities were available in Louisiana to treat juvenile offenders suffering from severe mental illness, many youth currently committed to secure care would be more appropriately placed in such facilities or even in their community. Absent a commitment to adequately fund and staff our public mental health care system, including local mental health clinics, and substance abuse clinics that are properly trained to treat adolescent disorders, OJJ must be given adequate resources to secure meaningful mental health care for this population of juveniles, whether in OJJ residential facilities, or in our communities on probation or parole under OJJ supervision.

We must add that the recent collaboration of OJJ, DSS, DHH, and the Department of Education, directed toward the development of a coordinated system of care for at-risk youth with significant behavioral problems or co-occurring disorders, while long overdue, holds much promise for the future. The coordination of these agencies and the services they provide should achieve substantial savings by addressing the duplication of services, and at the same time, offer better outcomes through targeted service delivery. A better coordinated system of care (with an emphasis on improving the quality of community-based services throughout the State) for those youth previously caught up in the child welfare and juvenile justice systems should also result in a reduction of the numbers of youth requiring out-of-home placement, whether with OJJ or DSS.

Despite many areas of progress, we agree with critics that reform is coming too slow. It would be easy for those of us who are responsible for public safety to be discouraged with approximately 100 juvenile offenders "pending secure placement." The shortage of secure beds creates a risk to public safety from those offenders and from those who may be prematurely released to open beds for offenders who are "pending secure." It would be easy for those of us who support "the whole package" of reform to be discouraged by the fact that the "revenue sharing" aspect of the Missouri Plan, to return savings from the down-sizing or closure of secure facilities to local judicial districts for diversion and community-based services, has proven to be largely illusory. It would also be easy to be discouraged that proven and effective truancy programs and early intervention programs are at continued risk; that there has been no additional funding for FINS; and that Children and Youth

Services Planning Boards remain an unfunded mandate. Finally, it would be easy to be discouraged that the facilities approved for St. Landry Parish, Monroe and Columbia will not be immediately available and that no others have been approved to (1) alleviate the issue of such a significant number of juvenile offenders "pending secure," and (2) allow the numbers of youth at Swanson to be reduced and the facility to be converted to a Missouri-style therapeutic facility, along with Jeston and Bridge City.

Given these shortcomings and needs, it is patently incorrect, however, to suggest that no progress has occurred, or that the reform process is "going backward." Such inaccurate observations unnecessarily frustrate those who fervently believe in the reform process, and lead to unrealistic expectations that the reform process can be completed in short order, despite past mistakes, and despite the current recessionary environment. A recent news article stated that Missouri has employed their Juvenile Justice Reform model "for more than 40 years." This is simply incorrect. According to Mark Steward, the architect of Missouri reform, the process began in the late 1980's and took more than 17 years to complete, with the assistance of a \$20 million statewide bond issue and a \$7 million budget increase to "jumpstart" the reform process, authorized by the Missouri Legislature in 1995. The Louisiana reform process began with the passage of Act 1225 of the 2003 Regular Session; and yet, OJJ critics continue to dominate the media, despite the many accomplishments noted herein. It is significant to note, however, that public safety concerns are rarely mentioned by the critics.

If the most ardent reformers suggest that Juvenile Justice Reform has not worked, or that the process is "going backward," then there will surely be some who wonder, "Why the cost? Is it worth the effort?" At a time when many local officials observe a disturbing increase in violent juvenile crimes, we are reminded that public safety is the primary concern of our constituents. Given the choice between juvenile offenders who are "pending secure" remaining in our communities or being committed to a less-than-ideal facility which lacks a therapeutic environment, responsible leaders will surely choose the latter. It will indeed be sad if our constituents come to believe that such a choice is necessary because of frustration engendered by unfounded and inflammatory criticism.

The District Attorneys remain committed to the development and implementation of a complete system of graduated sanctions, from FINS, appropriate diversion, early intervention, and community-based services, to secure care in a therapeutic environment, when necessary. We should, however, avoid efforts that elevate "the best interests of the child" to the exclusion of public safety. As constitutional representatives of the public, we must remind policy makers that the interests of victims; the safety of our communities; and the demands of justice, including deterrence and (yes) punishment, where appropriate, must be considered in the disposition of juvenile cases. We must continue in our efforts to strike an appropriate balance, among these (often) competing interests.