

MARYLAND DEPARTMENT OF JUVENILE SERVICES

RESPONSE TO DEPARTMENT OF LEGISLATIVE SERVICES ANALYSIS AND RECOMMENDATIONS

HOUSE PUBLIC SAFETY AND ADMINISTRATION SUBCOMMITTEE
March 2, 2017

SENATE PUBLIC SAFETY, TRANSPORTATION AND ENVIRONMENT SUBCOMMITTEE
March 6, 2017

Introduction

The Department of Juvenile Services continues to implement reforms and initiatives that are consistent with the developmental approach to juvenile justice, which takes into account the scientific research on the unique attributes of the adolescent brain. The department strives to strike the appropriate balance between holding youth accountable for their actions while not unnecessarily pushing youth deeper into the justice system.

The Department has successfully forwarded initiatives that reserve our highest level interventions for those youth who pose a risk to public safety and aim to provide a continuum of services to support youth in the community. Additionally, the Department implemented a strong system of quality assurance and accountability to ensure that reforms are being implemented in a manner to achieve desired outcomes. Facility operations have improved by creating a centralized hiring unit to swiftly fill vacancies, and the department has enhanced treatment services by implementing trauma informed care and a comprehensive reentry plan.

This strategic and comprehensive approach has resulted in producing better outcomes for justice involved youth while improving public safety.

Public Safety is Improving:

- ✓ Committed recidivism **declined 6%**. (From 23% in FY 10 to 16.7% in FY 15)
- ✓ Recidivism for State-run programs **declined 13%**. (From 31% in FY 10 to 17.9% in FY 15)
- ✓ Girls committed recidivism was **cut in half to 7%**. (From 15.4% in FY 11 and to 7% in FY 15)

Reform and Initiatives are Achieving Desired Outcomes:

- ✓ Pre-Disposition Juvenile Court ADP declined **46.8%** in ten years
- ✓ Juvenile Court Pending Placement population declined **69.8%** from its peak FY 11
- ✓ Out-of-State average population decreased **51.3%** since FY 11, to just 57 youth in FY 16.

Operations Improvements:

- ✓ Department facilities are **100%** complaint with the Prison Rape Elimination Act
- ✓ Implementation of Trauma Informed Care
- ✓ Reentry Strategic Plan
- ✓ Centralized Hiring Unit

Increased Community and Diversion Programming:

- ✓ Behavioral Health Diversion Initiative
- ✓ Crossover Youth Practice Model – Georgetown University, Center for Juvenile Justice Reform
- ✓ Community Conferencing
- ✓ Teen Court

Recommended Actions

1. Add the following language to the general fund appropriation:

, provided that since the Department of Juvenile Services (DJS) has had four or more repeat findings in the most recent fiscal compliance audit issued by the Office of Legislative Audits (OLA), \$50,000 of this agency's administrative appropriation may not be expended unless:

- (1) DJS has taken corrective action with respect to all repeat audit findings on or before November 1, 2017; and
- (2) a report is submitted to the budget committees by OLA listing each repeat audit finding along with a determination that each repeat finding was corrected. The budget committees shall have 45 days to review and comment to allow for funds to be released prior to the end of fiscal 2018.

Explanation: The Joint Audit Committee has requested that budget bill language be added for each unit of State government that has four or more repeat audit findings in its most recent fiscal compliance audit. Each agency is to have a portion of its administrative budget withheld pending the adoption of corrective action by the agency and a determination by OLA that each finding was corrected. OLA shall submit reports to the budget committees on the status of repeat findings.

Information Request	Author	Due Date
Status of corrective actions related to the most recent fiscal compliance audit	OLA	45 days before the release of funds

Agency Response: DJS disagrees with the recommendation. OLA has completed their most recent fiscal compliance audit. While the final report has not been issued, DJS believes that the report will not contain four or more repeat findings.

2. Adopt the following narrative:

- **Use of Mechanical Restraints and Strip Searches:** In response to concerns from the General Assembly, the Department of Juvenile Services (DJS) has agreed to implement a number of the recommendations made by the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System. The budget committees request that DJS provide the following information by December 1, 2017:
- an update on the progress made in implementing those recommendations;
- data on the use of strip searches pertaining to the circumstances, frequency, and outcomes for searches conducted in fiscal 2017;

- data on the number of times that youth are transported in mechanical restraints from a staff secure placement, while being released on an earned home pass, or released back to the community; and
- an evaluation of the potential for creating a non-secure transportation, including both the fiscal and operational impact.

Information Request	Author	Due Date
Use of restraints and strip searches	DJS	December 1, 2017

Agency Response: DJS agrees to report on the implementation of the Task Force to Study the Restraint, Searches and Needs of Children in the Juvenile Justice System recommendations.

However, DJS disagrees with providing data on the number of times youth are transported in mechanical restraints from a staff secure placement. DJS, at the request of the budget committees, will be submitting data regarding the number of transports, including those from staff secure placements, on or before April 1, 2017. DJS will use this data to evaluate the potential to create a non-secure transportation unit. It has been very onerous and time-consuming for DJS staff to collect this information. It is unnecessary to continue to collect the data, as we can use the already collected data to meet the reporting requirement of evaluating the potential for a non-secure transportation unit.

	<u>Amount Reduction</u>
3. Reduce funds budgeted for a provider rate increase. The fiscal 2018 allowance includes funding for a 2% provider rate increase for providers who have rates set by the Interagency Rates Committee. However, inflation is low and the fiscal 2018 budget does not include increases for State employees and level funds many mandated grants to local governments. This action allows for a 1% increase in provider rates for residential and nonresidential programs.	\$363,689 GF
Total General Fund Reductions	\$ 363,689

Agency Response: DJS has no position.

Responses

Secure Detention and Pending Placement Trends:

*There were nearly 220 fewer pre-adjudication and pending placement youth detained in DJS facilities in fiscal 2016 compared to a decade ago, reflecting a 44% decrease since fiscal 2008. Comparing year-over-year change, the detention population decreased by 2% between fiscal 2015 and 2016, with the reduction mitigated by a 53% increase in the adult court authorized detention population. The fiscal 2016 pending placement average daily population (ADP) was 60 youth, marking the third consecutive year that the pending placement population was below 100 youth, and a 9% reduction from the previous fiscal year. As a percentage of the total population of youth either in an alternative to detention (ATD) program or in secure detention (pre-adjudication and pending placement), the ATD population accounted for 64% in fiscal 2016. This calculation excludes the population of youth who are detained in a DJS facility pending action from the adult court system. Preliminary data from fiscal 2017 indicates that this population continues to decrease to 60% of the overall population. **DJS should comment on the decline in the use of ATD programming, given the fact that increasing diversion efforts is a key goal of the department's juvenile justice reform.***

DJS Response: DJS detention utilization is guided by the Detention Risk Assessment Instrument (DRAI). This tool helps insure that detention capacity is utilized for the youth at highest risk of flight and to public safety, and that ATD capacity is used for youth that are of moderate or high risk, but can be managed at home. The relationship between the total population of youth assessed for secure detention and ATD utilization is highly correlative. As the number of complaints to DJS for intake and secure detention admission sharply decline, the population of ATD-eligible youth shrinks and program utilization is lowered. DJS is confident that detention and ATD capacity is being used for the right youth, and is not concerned about the slight dip in the percentage of the population served in ATDs.

Adult Court Authorized Detention Population Trends:

*Effective October 1, 2015, courts are required to order a youth charged as an adult who is eligible for transfer to the juvenile system to be held in a juvenile detention facility, while pending that transfer decision, with a few exceptions. DJS has seen a significant increase in its youth-charged-as-adult population since fiscal 2014, increasing from an ADP of 37 to 104 youth in the past three years. These youth have significantly longer lengths of stay than other detention populations. An increasing percentage of these cases are being remanded to juvenile court, which could ultimately impact the department's committed population. **DJS should comment on how this population is being managed within the detention facilities, the potential impact to the committed population, and the unique resource needs of these youth. As will be discussed later in this analysis, the programming budget for the department is essentially level funded in fiscal 2018. DJS should comment on whether the increases in the adult court authorized detention population and the potential flow through to the committed population are accounted for in the fiscal 2018 budget.***

DJS Response: Pursuant to Chapter 412, 2014 Laws of Maryland, DJS and the Governor's Office of Crime Control and Prevention prepares a yearly youth charged as adult population forecast.¹ The forecast projects an increase in the youth charged as adult population. To date, DJS has absorbed this population with little impact on facility capacity and general operations. There are many external factors, such as legislation, police policies, and judicial practices that can have a material impact on this population. For example, there are legislative proposals relating to youth charged as adults this session that could have a significant impact on both detention and committed populations.

The most notable impact of holding youth charged as adults in juvenile detention facilities is their much longer lengths of stay. Youth detained for a juvenile case have an average length of stay in detention of 16 days compared to youth charged as adults that on average spend 81 days in juvenile detention. The longer lengths of stay impact the available detention capacity as well as education programming and behavioral health services.

Additionally, more youth charged as adults are being transferred back to the juvenile system for disposition of their cases. In FY 2015 210 cases were transferred back to the juvenile system compared to 295 in FY 16. Of the 902 committed dispositions in FY2016, 140 were the result of complaints that had originated in the adult court and were transferred to juvenile jurisdiction. This is a commitment rate of 47% for those transferred cases. Given the commitment rates, we do anticipate increases in our committed programs, both State operated and contracted.

The DJS budget for committed programs as submitted has the capacity to absorb additional youth initially detained with adult charges. Our budget for contracted residential uses forecast data that includes this population. However, the increases anticipated are modest any increase beyond those anticipated could require additional funding.

DJS Staffing Overview:

Over the past 15 years, DJS has lost a net of 112 regular positions, or over 5% of its regular workforce. The fiscal 2018 allowance eliminates an additional 20 vacant positions. Overtime spending has increased by \$1.4 million since fiscal 2013, along with resident advisor vacancies. The most recent staffing analysis data provided by DJS suggested the need for 105 additional direct care positions, prior to the loss of 20 positions in fiscal 2018. DJS should comment on how the department's current vacancy rate, after accounting for contractual resident advisors, compares to budgeted turnover for fiscal 2017 and 2018. The department should also discuss the issues driving the high attrition for resident advisor positions and what is being done to focus on improving employee retention. Finally, the department should comment on how the loss of 20 additional direct care positions, despite an already existing shortage of 105 positions, impacts departmental operations.

¹ Juveniles Charged as Adults and Held in Adult Detention Facilities: Trend Analysis and Population Projections, November 30, 2016, <http://djs.maryland.gov/AnalyticsReports/Juveniles%20Charged%20as%20Adult%20Population%20Forecast.pdf>

DJS Response: As discussed, DJS uses contractual positions to onboard facility direct care staff. This allows staff a two week on-site initiation prior to committing to the six-week Entry Level Training (ELT). In addition, it gives DJS an opportunity to evaluate staff through the ELT process and on the job training before committing to a merit position.

When taking into account the budgeted merit and contractual Resident Advisor (RA) positions (Trainee – Lead), and the current staff levels, DJS currently has one vacant facility direct care position. When factoring the contractual RA positions into the total budgeted staffing number the current vacancy rate for DJS is 6.22%. Current budgeted turnover is at 7.3%. The chart below reflects current vacancy numbers:

	<u>Filled</u>	<u>Vacant</u>	<u>Total</u>	<u>Vacancy %</u>
Case Management	411.50	37.00	448.50	8.25%
Resident Advisor	710.00	1.00	711.00	0.14%
Other	809.45	90.10	899.55	10.02%
Total	1930.95	128.10	2059.05	6.22%

Working with youth provides a unique challenge. That challenge along with others inherent in a “secure” facility operating on a 24/7 basis are the main factors driving turnover in our facilities. Working conditions including mandatory overtime driven by the need to maintain required staffing ratios are factors. Staff training, overtime draft procedures, improved physical plant and improvements to scheduling are all part of our staff retention strategy. In addition, as indicated in the analysis hiring at step 4 has been approved.

Departmental Policies on Shackling and Strip Searching Youth in Custody:

*During the 2016 session, the General Assembly expressed concern with the department’s current policies regarding the use of mechanical restraints and strip searches for youth in DJS custody. These concerns resulted in the addition of restrictive language in the fiscal 2017 budget bill and the enactment of Chapter 655 of 2016 establishing the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System. The final report of the task force included over 20 recommendations, several of which have been adopted by DJS. Additionally, several pieces of legislation related to the task force recommendations have been introduced during the 2017 session. **DJS should comment on the potential fiscal impact of the agreed upon policy changes and whether those changes can be accommodated within the department’s existing appropriation.***

DJS Response: The department is committed to employing facility policies and procedures that are in-line with national standards and strike the appropriate balance of keeping youth, the staff, and community safe while accounting for the individual and unique security needs youth present.

DJS believes that the majority of the recommendations of the Task Force can be implemented utilizing existing resources. However, as we implement changes to our security procedures the department will carefully monitor the new procedures to ensure the desired outcome of a safe and secure facilities are achieved. Although DJS anticipates the recommendations will be implemented with existing resources, unforeseen issues in implementation may require additional funding.

The Task Force recommended that DJS evaluate the ability to operate a non-secure transportation unit that would be responsible for transports required by the DJS staff secure programs. The evaluation of the feasibility of implementing an additional transportation unit would not require an appropriation, however, DJS anticipates an appropriation would be required to create a non-secure transportation unit.

At this time, DJS estimates the annual fiscal impact of a non-secure transportation unit would be approximately \$873,000. The major component of the cost is related to additional staff required to accommodate the non-secure transportation of youth. Costs associated with these changes may be mitigated to the extent that DJS is successful in implementing alternate strategies related to the transportation of youth to court hearings. Video conferencing is one strategy being explored. Multi-jurisdictional coordination of court schedules may also reduce costs. However, both strategies involve changes in Statute and/or policy and therefore cost savings are not factored into the current fiscal estimate.

DJS should also comment on the extent to which legislation is necessary to successfully implement recommended changes to the use of strip searches and mechanical restraints.

DJS Response: Legislation is not necessary to implement the recommendations related to searches and use of mechanical restraints.