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MARYLAND DEPARTMENT OF JUVENILE SERVICES

RESPONSE TO DEPARTMENT OF LEGISLATIVE SERVICES ANALYSIS AND RECOMMENDATIONS

HOUSE PUBLIC SAFETY AND ADMINISTRATION SUBCOMMITTEE
February 21, 2018

SENATE PUBLIC SAFETY, TRANSPORTATION AND ENVIRONMENT SUBCOMMITTEE
February 22, 2018

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 continues to implement a strong system of quality assurance and accountability to ensure that reforms are implemented in a manner to achieve desired outcomes.

The Department continues to implement initiatives that are in-line with the developmental approach and focus on a commitment to equity; improvements to facility operations; and collaboration with other child serving agencies to achieve positive outcomes for justice involved youth.

Collaborative Initiatives:

- ✓ Expanding the **Cross-over Youth Practice Model** (CYPM) to eight additional localities in 2018. The CYPM is designed to address the unique needs of youth who fluctuate between and are known to the child welfare and juvenile justice systems. CYPM brings together social services and DJS to jointly case-plan and deliver services to youth in the system that best meets their needs.
- ✓ Expanding the **Behavioral Health Diversion Initiative** (BHDI) statewide between 2018 and 2019. BHDI is a partnership with local behavioral health providers to link youth with behavioral health needs and their families to community services and divert them from the juvenile justice system.

Operations Improvements:

- ✓ **Positive Behavioral Interventions and Supports (PBIS)**
DJS has implemented facility wide PBIS in all DJS committed facilities. PBIS is a framework used in Maryland schools and across the country. PBIS will align behavior management programming with best practices to improve outcomes for youth.
- ✓ **American Correctional Association (ACA) – Juvenile – Accreditation**
DJS is seeking accreditation by the Juvenile Division of the ACA for two residential committed facilities. Accreditation represents compliance with national standards and best practices as provided by juvenile practitioners nationwide.
- ✓ **Additional Hardware Secure Capacity – Savage Mountain Youth Camp**
To expand the DJS continuum of care to meet the diverse needs of our youth, DJS is upgrading the security at the Savage Mountain Youth Camp. The upgrade will consist of a security fence and enhanced camera surveillance, along with improved educational space. Building our continuum of care will reduce the need to send youth out of state when they are unable to be managed in the current non-secure and open campus setting.

Commitment to Equity:

- ✓ DJS is implementing a **Racial Equity Plan**. The framework of the plan consists of a series of actions taken to acknowledge, examine, and develop solutions to the problems that lead to racially disparate outcome for youth and families of color who have either front or deep-end contact with the agency.
- ✓ The Framework Includes:
 - Statewide training to expand racial equity expertise across all DJS regions
 - A Racial Equity Lens to identify and problem-solve for equity barriers
 - Reforms of DJS policies and practices to advance outcomes for youth of color
 - Routine data collection to track problem indicators and outcomes by race & ethnicity

Recommended Actions

1. Add the following language:

Provided that \$45,~~629,309~~292,144 of the appropriation made for Comptroller’s sub object 0818 Purchase of Care Services may only be expended for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise, and shall revert to the General Fund or be canceled.

Explanation: This action restricts funding budgeted for contractual youth care services to that purpose only. In recent years, the department has experienced population declines significant enough to create general fund surpluses. Portions of these surpluses have been redirected for various internal uses, including significant capital improvements and other operating expenses. The use of operating funds in this manner minimizes the transparency of the agency’s true operating need. This action ensures that funds budgeted for youth care services are used for that purpose, and if additional need exists elsewhere, the department should pursue proper deficiency and funding approval request procedures.

Agency Response: DJS strongly disagrees with the recommendation.

2. Adopt the following narrative:

Strategic Reentry Performance Measures: Youth who are released from commitment face numerous challenges in returning to daily life, such as re-enrolling in school or accessing needed somatic or behavioral health service. In fiscal 2016, the Department of Juvenile Services (DJS) adopted a Strategic Re-Entry Plan designed to ensure that youth returning to the community have the support and resources necessary to help them achieve a successful transition. Initial indicators suggest a positive impact from the clearly established quality assurance system in place to ensure the services once the youth is in the community. To assist the General Assembly in monitoring the department’s progress in improving juvenile reentry, the budget committees request that DJS develop reentry performance measures as part of its Managing for Results submission.

Information Request	Author	Due Date
Strategic reentry performance measures	DJS	With the annual Managing for Results submission

Agency Response: DJS agrees with the recommendation.

3. Adopt the following narrative:

Facility Capital Needs Assessment: The budget committees request that the Department of Juvenile Services (DJS) conduct an analysis of its facility capital needs that are not addressed through its Facility Master Plan, including any facility renewal and lifecycle management projects. In addition, the assessment should identify the extent to which smaller facility improvements can be combined into larger, more comprehensive capital projects. It is the intent of the budget committees that, to the extent that funding is provided for these projects, it should be done through the capital budget, Facility Renewal Program, or a pay-as-you-go appropriation. The assessment should be submitted to the budget committees no later than September 15, 2018.

Information Request
Facility capital needs
assessment

Author
DJS

Due Date
September 15, 2018

Agency Response: DJS disagrees with the recommendation.

4. Add the following language:

V00G01.01 Baltimore City Regional Operations

To become available immediately upon passage of this budget to reduce the fiscal 2018 appropriation for residential per diems to bring funding in line with projected population declines.

General Fund Appropriation..... -2,500,000

Explanation: This language implements a negative deficiency appropriation, withdrawing \$2.5 million in general funds for residential per diems, based on anticipated population decline.

Agency Response: DJS disagrees with the recommendation.

	<u>Amount</u>	
	<u>Reduction</u>	
5. Reduce funding for residential per diems based on anticipated population decline.	\$1,000,000	GF
6. Reduce funding for overtime expenses. This reduction places fiscal 2019 overtime in line with fiscal 2017 actual expenditures, based on continuous population declines and improvements in hiring. The reduction can be allocated across all programs within the department.	\$400,000	GF
Total General Fund Reductions	\$ 1,400,000	

Agency Response: DJS disagrees with the recommendation.

Page 3 and Page 19, Adult Court Authorized Detention Population Trends:

Effective October 1, 2015, courts were 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 116 youth in the past four years. These youth have significantly longer lengths of stay than other detention populations. A comparison of the average length of stay (ALOS) for this population by region reveals that ALOS in Baltimore City is more than double the second longest regional ALOS. **DJS should comment on how it is working with the courts and other stakeholders to improve case processing for youth awaiting action from the adult court system. The department should also comment on what actions the General Assembly should consider to alleviate the strain on these youth and departmental operations.**

DJS Response: The Department has experienced an increase in the number of youth charged as adults admitted to juvenile detention facilities. In FY 2016 there were a total of 308 juvenile detention admissions statewide of youth charged as adults compared to 396 in FY 2017.

To date, DJS has absorbed this population in our detention facilities; however, youth charged as adults tend to have a much longer length of stay than a youth charged in the juvenile court. The longer lengths of stay of youth charged as adults has most affected operations at the Baltimore City Juvenile Justice Center (BCJJC). For example, a youth charged in the juvenile system and detained at BCJJC has an average length of stay 12.7 days, where as a youth charged as an adult detained at BCJJC has an average length of stay of 139 days. The longer lengths of stay impact the available detention capacity as well as the availability of education programming and behavioral health services.

The Department is committed to working with stakeholders in the justice system to develop strategies to reduce the time youth charged as adults are detained in Baltimore City awaiting their transfer hearings. In the summer of 2017, X DJS conducted a case processing study to identify where delays occurred and to pinpoint opportunities to for improvements. To that end, DJS has collaborated with the Baltimore City Court to develop a specific protocol for reports to be submitted and hearings to be scheduled. If this protocol is followed, DJS anticipates experiencing dramatic declines in the length of stay for this population.

Additionally, more youth charged as adults are being transferred back to the juvenile system for disposition of their cases. In FY 2016 295 cases were transferred back to the juvenile system compared to 327 in FY 2017. Of the committed dispositions in FY2017, 127 were the result of complaints that had originated in the adult court and were transferred to juvenile jurisdiction. This is a commitment rate of 38.8% 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 and any increase beyond those anticipated could require additional funding.

Page 4 and Page 23, Strategic Reentry:

Youth who are released from commitment face numerous challenges in returning to daily life, such as re-enrolling in school or accessing needed somatic or behavioral health service. In fiscal 2016, DJS adopted a Strategic Re-Entry Plan designed to ensure that youth returning to the community have the support and resources necessary to help them achieve a successful transition. Initial indicators suggest a positive impact from the clearly established quality assurance system in place to ensure the services once the youth is in the community. **To assist the General Assembly in monitoring the department's progress in improving juvenile reentry, the Department of Legislative Services (DLS) recommends that DJS develop reentry performance measures as part of its Managing for Results submission.**

DJS Response: The Department agrees with the DLS recommendation to include reentry performance measures as part of the Department's MFR submission.

Page 4 and Page 34, Office of Legislative Audits Notes One Dozen Findings in the Most Recent Fiscal Compliance Audit: The Office of Legislative Audits released its most recent fiscal compliance audit for the department in November 2017. The audit disclosed 12 separate findings, of which 3 were repeat findings from the previous audit. Issues pertain to contracts for youth care services, circumventing State procurement regulations, not maximizing federal funds, and insufficient controls over the restitution process. **DJS should brief the budget committees on actions taken to address each of the audit findings.**

DJS Response: Please see appendix A for an overview of the actions taken to address each of the November 2017 audit findings.

Page 4 and Page 35, Newly Constructed Cheltenham Youth Detention Center is Hampered by Significant Maintenance Issues: The State provided \$58.7 million in capital funding to construct the new 72-bed Cheltenham Youth Detention Center. The facility was occupied in November 2016. Since that time, there have been numerous warranty work order issues. While these are not resulting in a fiscal impact to the department, they are generating operational issues. In addition, the contract with the Whiting-Turner Construction Company does not include a specific timeframe for responding to warranty issues. As such, many of the identified issues remain unresolved. **DJS should brief the committees on the issues with the facility and the impact on youth and staff. The department should also comment on how it intends to remedy the outstanding work orders under the warranty and lessons learned for avoiding similar situations for future construction projects.**

DJS Response: The following are the remaining warranty work order issues related to the construction of CYDC: 1) Flooding and equipment failures associated with the EVAC sewage system forcing the relocation of youth in the affected housing units to other unaffected housing units; 2) Drain failures resulting in flooding throughout the kitchen have created safety and code violations; 3) Electrical outages resulting from lightning strikes and major rain events causing the HVAC systems to shut down and have to be reprogrammed; 4) Housing unit light outages forced the relocation of youth in the affected housing units to other unaffected housing units; 4) Storm water management drainage and sediment control pond back-ups, resulting in total kitchen flooding and major site flooding at numerous locations on exterior of the building; 5) Unmaintained landscaped and noncompliance of contract issues regarding replanting of trees and shrubs. In addition, there are numerous minor open warranty work order issues.

Upon occupancy of CYDC (November 2017), it was determined that the newly constructed exterior wall surrounding the Center's main entrance had to be demolished due to lack of insulation. This resulted in areas of the building having temperatures ranging from 20 degrees to 30 degrees and the freezing and breakage of sprinkler piping located in the Center's main lobby. Staff assigned this area (Lobby and Administrative Suite) were forced to wear winter clothing (gloves, knit caps, heavy coats and jackets) to endure these freezing internal temperatures.

DJS' capital projects are procured, managed and inspected by the Department of General Services (DGS) Construction Unit. Following DGS' established protocol, all warranty work order issues have been submitted to DGS and the general contractor, Turner Construction Company, Incorporated.

Based on lessons learned, the following modifications shall be included in the contract documents for all future DJS capital projects: 1) The contractor's response time concerning warranty work order issues shall be stated as 24 to 48 hours for all life safety, security and other major operating issues; 2) The EVAC sewage system, which was installed at CYDC and has been extremely problematic will not be used in future DJS facilities; 3) DJS will request additional parts and equipment for all major building component systems.

Page 6 and Page 36, DJS Increasingly Utilizes Excess Operating Funds for Capital Expenses: With higher than anticipated vacancy rates and lower than anticipated population declines, DJS has benefitted from sizeable general fund surpluses in recent years. At the same time, the State has faced a compressed capital budget and significant underfunding of its Facility Renewal program. As a result, DJS has increasingly redirected general funds toward capital projects, improving, upgrading, and modifying its facilities outside of the typical capital budget process. While these projects may be of worthy pursuit, funding capital projects with the use of operating appropriations originally provided for other purposes poses several issues. It limits the oversight and input of the General Assembly and the Department of Budget and Management, in terms of the capital projects funded and the level of operating expenses required by the agency; generates an increased, yet unacknowledged, workload for the Department of General Services; and counts one-time capital-related expenditures as ongoing State spending. **DLS recommends that DJS conduct an analysis of its facility capital needs that are not addressed through its Facility Master Plan. To the extent that funding is provided for these projects, it should be done through the capital budget, Facility Renewal Program, or a pay-as-you-go appropriation.**

DJS Response: DJS believes that the current Facility Master Plan adequately addresses the capital needs of the Department.

Page 33, Residential Per Diems:

Given the recent history of general fund surpluses and the continued population declines evidenced in the preliminary data for fiscal 2018, DLS recommends reducing the general fund appropriation for residential per diems in fiscal 2018 and 2019. In addition, DLS recommends adding language restricting the funding for contractual youth care services to that purpose only.

DJS Response: As previously stated, DJS disagrees with the recommendation to reduce the general fund appropriation for residential per diems in fiscal year 2018 and 2019. To date, fiscal year 2018 funding for residential per diems has been reduced by over \$3.1 million. As indicated in the analysis, the adjusted budget for this item is flat when compared to FY 2017 actual expenditures. The analysis also indicates that the detention population for FY 2017 has increased as a result of the youth charged as adult population and the longer ALOS associated with that population. As the youth charged as adult population has impacted the detention numbers, DJS must plan for the impact that this population will have on our committed numbers. It is more likely that these youth will be adjudicated in the juvenile court and that the commitments of these youth will be for longer periods. Reducing FY 2018 funding at this time would eliminate the ability to address the additional funding needed.

Fiscal year 2019 funding is \$1.3 million less than FY 2017 actual expenditures. Any reduction in the level of funding will eliminate our ability to address the changes in population discussed above.

The Department strongly disagrees with the recommended action as it jeopardizes the safety and security of the Department's operations. This item would restrict 66% of the Department's entire contractual services budget. The remaining 34% is already allocated as it is dedicated to medical care, education/training, community detention equipment rental and various other service contracts related to both facility and community operations. By restricting 66% of the Department's contractual services budget, the Department will not be able to cover expenses for equipment used to increase the safety and security of its 13 residential facilities; emergency maintenance projects; items necessary in reaching compliance with the Prison Rape Elimination Act (PREA); and may require the Department to terminate certain contractual employees.

For illustrative purposes, had this restriction been in place for the Fiscal Year 2016/2017 budget, the Department would not have been able to address privacy issues in DJS facility bathrooms mandated by PREA. Similarly, we would have been unable address heating and ventilation issues in the DJS youth camps, replace inadequate critical backup power systems in two of our facilities and address erosion issues that jeopardize the security of our facilities.

In operating and overseeing 13 residential facilities, 30 community based offices and 3 Evening Reporting Centers, the Department needs flexibility in its budget to deal with unforeseen issues as they arise. This recommended action seems to suggest that the Department should resume the practice of requesting and relying on deficiency funding. However, this is irresponsible and unpractical as the Department would have to wait until April of 2019 to have funding approved. In addition, the Department is concerned over its ability to fund items after April 2019 as the Department will not be able to submit deficiencies for the remainder to the fiscal year. Therefore, the Department would be unable to fund any urgent safety or maintenance issues, which would result in serious injury or harm to the Department's employees, the youth under its custody, and the public.

In summary, this recommended action would inhibit the Department's ability to operate by eliminating its ability to utilize contractual services savings. The Department understands the Committees' concerns. However, the use of the savings from contractual services to fund "capital" needs is very limited. Approximately 65% of the recent savings were diverted to fund two critical projects, the security fence at Savage Mountain Youth Camp and replacement of the emergency generator at the Backbone Mountain Youth Camp.

The total funding diverted is a small portion of the Department's savings. Since fiscal year 2013, the Department has given back over \$66.2 million, including \$4.5 million in FY 2018, through cost containment, position cuts and general fund reversions. It is a prudent and acceptable budgetary practice to utilize any budgeted savings available to cover unanticipated costs throughout the entire year to assist

in ensuring the Department has a balanced budget. The Department urges the Committee to reject this recommended action.

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DJS has indicated its intention to pursue accreditation by the Juvenile Division of the American Correctional Association (ACA) for two of its committed residential facilities, the Victor Cullen Center and the J. DeWeese Carter Center. When ACA accreditation has been pursued in the adult correctional system, it has required extensive facility improvements. **DJS should discuss its plans for pursuing ACA accreditation and the potential impacts this will have on its capital and operating needs.**

DJS Response: As indicated, DJS is pursuing ACA accreditation for the Victor Cullen Center and the J. DeWeese Carter Center. At this time, we do not anticipate any material cost impact associated with the accreditation process. Facility upgrades needed to bring the department into compliance with PREA have already been completed. Remaining work is around updating policy and procedure and implementation of those changes into our practices.

