

**Minutes**  
**Senate Committee on Children and Youth and the House Committee on**  
**Aging, Children and Youth, Legislative and Military Affairs**  
**Meeting Jointly**  
**Tuesday, October 6, 2015**

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The Senate Committee on Children and Youth and the House Committee on Aging, Children and Youth, Legislative and Military Affairs met jointly on Tuesday, October 6, 2015, at 10:00 a.m., in Room 171 of the State Capitol Building in Little Rock, Arkansas.

Committee members present: **Senators** Stephanie Flowers, Chair; Bart Hester, Vice Chair; Linda Chesterfield and Greg Standridge. **Representatives** George B. McGill, Chair; Charlene Fite, Vice Chair; Karilyn Brown, Bob Johnson, Julie Mayberry, David Meeks, Marcus E. Richmond, James Sturch and Clarke Tucker.

Non-committee members present: **Senator** Gary Stubblefield. **Representatives** Charles Blake, Joe Jett, Kenneth B. Ferguson and James Sorvillo.

**Consideration to approve Minutes of September 15, 2015** [EXHIBITS C]

**Representative Sturch made a motion to approve the September 15, 2015, meeting minutes. Without objection the minutes were adopted.**

**Advocacy for Juveniles with Disabilities, Tom Masseau, Executive Director, Disability Rights Arkansas (DRA)** [EXHIBIT D] – [HANDOUT #1]

Mr. Masseau presented a PowerPoint presentation and provided a handout for the committee to review. DRA is a private, non-profit agency. He, along with Mr. Sam Kaufman, Attorney, DRA, discussed the objectives of DRA and its efforts to implement a federally authorized protection advocacy system. Every state and territory has a DRA similar to Arkansas' program. DRA is a federally funded program mandated by Congress. The mission of DRA is to "advocate for the rights of people with disabilities". This includes all disabilities from birth forward. DRA operates from eight different funding streams dictating the different types of disability characteristics that DRA serves. The lack of special education service, support and funding is one of the biggest concerns in the state of Arkansas. DRA has six priority areas: accessibility, community and institutions, education, employment, juvenile justice, prisons and jails. With a budget of \$1.4 million the agency has very limited resources, and serving a half million people in the state of Arkansas, prioritizing is very important as well as focusing on DRA objectives.

The educational object of DRA is that eligible students will have access to appropriate accommodations in the least restrictive environment, be identified if at risk of commitment to the Division of Youth Services (DYS), be evaluated and be provided with resources for transitional planning. DRA has found that there is very limited planning for students with disabilities.

Mr. Kaufman mentioned that education is one of the areas in which DRA spends a lot of its time. Education has a broad definition when addressing issues related to disabilities. There are two federal laws that address the issues of education: IDEA (Individuals with Disabilities Education Act) and Section 504, of the Rehabilitation Education Act. All schools are provided the rules and must follow them as mandated. These rules mainly deal with supports and accommodations. The responsibility of

the DRA is to monitor abuse and neglect in schools and provide representation to ensure that student's educational rights are enforced.

The primary problems identified by DRA that feed the school to prison pipeline are as follows: failure to identify at-risk-youth, failure to provide support, placement of student in alternative learning environments, use of FINS, and use of delinquency to remove students with disabilities from the classroom. Behavioral incidents often arise when schools do not identify these students that they have a legal responsibility to identify. When this fails students often end up in the system for minor incidents. Zero- tolerance policies have caused minor offenses to be addressed in the juvenile justice system causing a back log in the system itself. Creating incentives and support for schools to identify these youth early on will result in the greatest success.

Sen. Flowers asked that DRA provide the committee with data by school districts regarding the number of referrals and educational issues being addressed by DRA, to include the type of disability. Mr. Kaufman acknowledged that some of the data requested is not collected by DRA.

Representative Brown expressed concern about the jargon and acronyms used by professionals when developing the IEP. As a parent, of a child who has a disability, the process can be very frustrating. She asked that DRA work with the Department of Education to make the process easier for parents.

Representative Mayberry mentioned an alternative program for youth with behavioral problems called Calo Teens located in Missouri. Calo Teens assists youth with behavioral issues and serves as an alternative resource. She noted the case of one family that had great success with this diversion program. The program is set up to receive Arkansas kids.

Members discussed the value of partnerships and providing services at the community level and in the least restrictive environment.

Sen. Chesterfield asked, "what is the disincentive for not identifying children who qualify for special education, especially since there is additional funding available to provide the service." Mr. Masseau suggested that while they have not studied the issue, it might be interesting to see if the additional funding is adequate, if qualified personnel can be found in the local community to provide needed service and if other needed resources can be found in the local community.

**Juvenile Justice Reform: Model Programs in the State of Georgia, Judge Steven Teske, Chief Judge, Clayton County Juvenile Court**

Judge Teske mentioned an article that he wrote for the American Bar Association, noting that "we are a nation in paradox when it comes to taking care of our children, it is an indictment of communities across the country when on one hand we promulgate laws to promote the education of children with disabilities and on the other we fail to safeguard them from incarceration on relatively minor school offenses that are likely a manifestation of a disability". Currently, a disproportion number of children with education related disabilities and who are eligible for special education services under the federal Individuals with Disabilities Education Act are in the juvenile justice system. Studies show that 70% of incarcerated youth have disabilities.

Judge Teske proceeded high lighting, what works and what doesn't and why. He noted that what goes missing in all of this is a larger population of students in our schools that will never be diagnosed

under IDEA and it is not because they are not being looked for and identified. It is because their chronic disruption is not a manifestation of a disability but rather, a manifestation of other things that have happened to them in their lives; a lot having to do with trauma related issue that are not listed as diagnoses under the IDEA. This is the population that often gets caught up in the school to prison pipe line.

Judge Teske noted that since Clayton County reform began in 2003 the juvenile arrest rate has decreased by 62% and the graduation rate has increased by 24%. Over this time period, adult crimes have decreased by 43 percent. If the crime rate is to be reduced you have to start now with the young people and in order for reform to work all stakeholders need to be involved and supportive. Clayton County is the poorest community in the Atlanta area with 100% free lunch, 33% mobility rate; however, in 2014 it had the highest increase in graduation rate among 159 counties in Georgia. In order for positive changes to occur, you have to target youth with disabilities and behavioral problems and figure out what to do with them; remembering that they are naturally wired at this age to do “stupid things”. Not that they are stupid, but as a teen they are naturally wired to do stupid things.

Youth with a disability and those who suffer from complex trauma are more likely to fail a grade in school, drop out of school, have struggled in receptive and expressive language, have suicide ideation, been subjected to school suspension or expulsion and are more likely to be arrested. Complex trauma can be associated with kids who live in poor and poverty stricken communities, who are experiencing domestic violence at home, witnessing drug transactions and violent crimes. This is what they bring to school. When they sense danger, the thinking brain shuts down, allowing the doing brain to act. Complex trauma kids are already neurologically impacted; this is why we have to do all we can to help provide safety, stability and positive relationships for these kids. One of the core strategies for increased graduation rates was not only stopping the arrest of kids for minor offenses on campuses but also improved relationships with the school resource officers (SRO) teaching them to put a smile on their faces and engaging even the most troubling kids.

Clayton County was the first county in the United States to establish the “School Justice Partnership Model”. It is one of the recognized evidence based juvenile justice programs. Of programs meant to eliminate zero tolerance policy in the school systems, the Georgia Clayton County School Referral Reduction Protocol has been noted by scholars in community corrections as an ideal solution to excessive school suspensions, expulsions and arrests. Judge Teske stressed that we must start listening to what our children’s behavior is telling us and exploring the underlying causes.

The School Justice Partnership Model now adopted by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) under the Department of Justice, the Annie Casey Foundation and the McArthur Foundation changed the conversation related to juvenile justice. The process began with data/always question the data/make no assumptions. He compared the study of juvenile justice with Epidemiology. In Epidemiology the goal is to provide a basis for developing surveillance measures and prevention procedures for groups and at-risk populations. To identify causation and strategies that impact both groups and populations thereby allowing individual treatments to be effective. This represents a shift from targeted reaction to population based prevention and intervention. Study the determinates for when, where and how disruptive behaviors occur, this behavior does not happen by

chance, just like diseases do not happen by chance. What studies in Georgia found is “data shifting”, when the expulsion rate went down the alternative education rates went up, this did not solve the problem, school climate did not change. In a co-conducted study it was also found that adults have as much of a significant bearing on school climate as the children. This is why in Clayton County brought in Positive Behavior Intervention Supports (PBIS) and all of the school administrators were trained and certified in PBIS; this helped the schools to be more responsive to the new laws affecting this population.

When the conversation changed about how to look at data and how decisions are made the Attribution Theory was applied. This is the attempt to understand the behavior of others by attributing causation to feelings, beliefs, intentions and/or situations. For example, the behavior is a child raises his voice to a teacher; two students do the same thing. One attribution, “he did that because he has no respect for authority”, consequence out of school suspension but the next student depending on the adult involved, “he did that because of immaturity and peer pressure, the consequence after school suspension. So we need to be careful about fundamental attribution error and begin redefining accountability and examining situational factors.

When we begin to focus on school climate and bringing positive relationships into the schools, even with those kids that make us mad; a 1% improvement in school climate was found to increase student average attendance by 1.6%. In a study of students in grades 9-12 with 15 or more absence (excused and unexcused) lead to a graduation rate of 30.73%, it was found that the majority of the absences were due to suspensions. The schools over suspended rather than coming up with alternative to suspension. We already know that punishment alone doesn't work. Over suspension in the education world is the equivalent of over incarceration in the juvenile justice world and we know that if you over incarcerate kids you increase the risk of recidivating or reoffending. To address this problem the school superintendent in Clayton County started by rewriting the school discipline handbook to come up with alternatives to school suspension. By 2010 delinquency petitions were down with a report of 1,229 filings compared to over 5,000 in previous years. Of the 1,229 filings 859 of them never saw the inside of the courtroom. Judge Teske's office assisted by providing a full time programs development coordinator to assist with the revision of the handbook. This was a collaborative effort and a diversion project targeting low risk youth. The recidivate study which was done by people outside of Clayton County revealed that over a three year period 70% of the kids in the study were never seen again. This taught us that we have to be very careful up-front about the adult response to behavioral problems.

He mentioned the Gary Sweden Study it suggests that “a student arrested in high school is twice as likely to drop out and a student who appears in a courtroom is four times as likely to drop out”. This tells us again, how important that initial response is; whether you are an educator, SRO, intake office, juvenile judge, police officer or administrator. Tools need to be available to assist in making a determination as to whether a kid should be locked up, suspended or not.

The School Justice Partnership was formed to take a closer look at initial responses, underlying factors, and building positive relationships. The presumptive rule was created where certain offenses are not arrestable, unless you can show aggravating circumstances that justify the filing of a petition. This was

a graduated response program: second offense in the same school year would be assigned to attend a workshop held in the school environment and the third offense in the same school year a complaint could be filed. Within 6 month of this initiative arrest rates fell 54% and SROs reported more time on campus as opposed to being in court. The International Association of Chiefs of Police has adopted this model, “The Positive Student Engagement Model for School Policing”.

Judge Teske noted that in Georgia it is written in the Juvenile Code that school officials shall not file a CHINS (Children in Need of Services) petition unless:

- (1) The legally liable school district has sought to resolve the expressed problem through available educational approaches.
- (2) The school district has sought to engage the parent, guardian, legal custodian of such child in solving the problem but such person has been unwilling or unable to do so and that the problem remains and court intervention is needed.

If a student has an Individualized Education Program (IEP) or is suspected to be eligible for one the petition shall state that the school has reviewed the child’s current IEP and placement for appropriateness and has made modifications where appropriate. At the disposition hearing the IEP is required to be filed with the court and made a part of the record. This allows judges to look at mitigating factors and other contributing factors. It also provides valuable information to the person that will be working with the kid.

Status offense kids who are unruly, truant, etc. can no longer be detained in Georgia for more than 24 hours. Georgia removed its valid court order exception, that is if a kid who is a status offender (CHIN) is placed on an order of supervision but violates it, they cannot be arrested, in Arkansas these same kids can be arrested and placed in detention. Georgia applies a graduated sanctions response. In Georgia you cannot arrest the kid; we do not issue warrants unless there are exigent circumstances.

In the state of Georgia misdemeanor offenses are no longer committable instead the Juvenile Justice Reinvestment Program was created. By incorporating this program and its changes the state of Georgia has saved \$85 million. Some of the savings are being redirected into a special line item of the Georgia Department of Juvenile Justice and a deputy commissioner position was created to manage the reinvestment money.

Since the passage of reform legislation changing the way juvenile justice is handled in Georgia the state has closed two juvenile prisons, and has stopped the process of building two new correctional facilities. In those counties that are getting the reinvestment money commitments are down 62%. Statewide commitments are down 17%.

Evidence based programs utilizing reinvestment funds and in compliance with the law can be found on the Office of Juvenile Justice and Delinquency Prevention website at [www.crimesolutions.gov](http://www.crimesolutions.gov) . The reinvestment funds allowed Clayton County to introduce Functional Family Therapy, a well established evidence based family therapy intervention for the treatment of violent, criminal, behavioral, school and conduct problems with youth and their families. This program had never been in any jurisdiction in the state of Georgia. Programs must be tied to evidence based practices in order to use reinvestment funds.

For the chronically disruptive kids, a System of Care Panel was formed. It is a multidisciplinary panel created by court order. The panel meets every week and receives referrals from the schools. The referrals are those kids for whom the schools have exhausted all of the traditional resources and the kids have not responded. Typically, these are kids who have clinical needs. The panel received so many referrals that it could not handle all of them and the Clayton County Collaborative Child Study Team (Quad C CST) was created as a 501(c)3 with a board of directors consisting of people from the private and public sectors (corporations, universities, courts, law enforcement). This entity uses the Collective Impact Model in its decision making regarding juveniles. Different from a collaborative model where one objective is accomplished and the task is finished, this model pushes a common agenda that is non-ending. The team consists of one CEO and two full time staff. Their job is to manage the multidisciplinary panels that go to the schools to do assessments of kids who are chronically disruptive and to determine the underlying cause and match them to effective treatment modalities. The goal is keeping kids in school, out of courts, and on to positive futures and careers.

The results, since 2010 student behavior has improved 86%, these were students on the pathway to dropping out, the ones mentioned earlier who should be identified early on and assessed to determine the underlying cause of their disruptive behavior. While these are usually the kids we don't like and are difficult to work with, the results show that it pays off. Attendance went up 61-62%, graduation rates went up and students felt better about themselves and their educational environment

Senator Flowers asked if the statewide reforms in Georgia were statutory. Judge Teske indicated that they were statutory and that the Juvenile Justice Reinvestment Program was by executive order. Additionally, he noted the governor also formed by executive order the Criminal Justice Reform Council the first year of the reform which was a diverse group, and brought in outsiders to interpret and present the data and educate the council members about what the data showed for Georgia as well as what works and what does not. As referenced earlier, the website [www.crimesolutions.gov](http://www.crimesolutions.gov) is used in Georgia to determine which programs are being funded and are in compliance with the law. People involved in the reform process needed assistance to help them "wrap their heads" around the issues and understand the initiatives to be taken in order to move forward. They found that some of the players were being too restrictive in terms of their interpretation of laws regarding for example, confidentiality. A foundation had to be established and relationships built that allowed conversation and an ability to embrace each other with a focus on how to fix the system with the child's best interest being priority. He also encouraged an initial financial investment in reform to jumpstart the process as was the case in Georgia.

Representative Mayberry asked about the crime rates, are they going down? Judge Teske indicated in school misdemeanors which are in the public order classification, things like disorderly conduct and school fights are down 76%. When the 76% is removed from the data base, crimes against person are down 43%, property crimes are down 46%, weapons crimes are down 41% and drug crimes are down 43%. When you remove school based filings and bring in public order crimes there is a 54% decline in crime rates. He noted that there has been an unusual increase in armed robbery with firearms which is an automatic transfer to adult court, this involves kids that skip the juvenile justice system but the data is being reviewed for an explanation.

Marcus Devine, Director, Division of Youth Services (DYS) was recognized and stated that the Juvenile Justice Reform Board convened its first meeting on September 30, 2015. The board is embarking on juvenile justice reform with the support of the governor and the legislature. Many of the things mentioned by Judge Teske were discussed in the initial meeting. The board will be moving forward with these discussions.

The next meeting is scheduled for Wednesday, October 15, 2015 at 10:00 a.m.

With no further business, the meeting adjourned at 1:00 p.m.

DRAFT