

**JOINT PERFORMANCE REVIEW COMMITTEE
MARCH 30, 2016
MINUTES**

The Joint Performance Review Committee met at 9:30 a.m. on Wednesday, March 30, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Mickey Gates, Michelle Gray, Josh Miller, Micah Neal, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, Clarke Tucker, and David Whitaker.

Other legislators present: Senators Scott Flippo and Greg Standridge. Representatives Charles Armstrong, Vivian Flowers, Michael John Gray, Sheilla Lampkin, Mark McElroy, Betty Overbey, James Ratliff, Sue Scott, James Sorvillo, and Jeff Wardlaw.

Call to Order

Representative Hammer called the meeting to order.

Approval of Minutes – March 16 and 17, 2016 [Exhibit C]

A motion to approve the minutes of the March 16 and 17, 2016 JPR Committee meetings were made by Senator Cooper and seconded by Representative Nicks, Jr. The motion carried.

Consideration of the Joint Performance Review Committee's Exercise of Subpoena Power. Members of the JPR Committee will Consider Whether Subpoenas for Persons, Documents, and Records are Appropriate as Part of Its Ongoing Review of the Arkansas Department of Human Services and the Division of Children and Family Services (DCFS), (DHS)

A motion to issue a subpoena to Leah Lanford, Appellate Attorney, Dependency-Neglect Division, Arkansas Public Defender Commission, to appear before a meeting of the JPR Committee scheduled for Thursday, April 14, 2016 was made by Representative Gates and seconded by Senator Stubblefield. The motion carried.

Update on the Implementation of the Universal Assessment Tool Software Developed by CoCENTRIX

Kenneth Robinson, President, and Pam Cooney, Services Coordinator, Pine Bluff Psychological Associates (PBPA), were sworn in under oath by Representative Hammer. Mr. Robinson gave an overview of contracts his organization has with the Division of Developmental Disabilities Services (DDS), Arkansas Department of Human Services (DHS). He told committee members that PBPA entered into a contract with DDS in 2012 to conduct assessments of the DDS population. The contract set 5,000 as the maximum number of assessments. PBPA completed 4,400 assessments in the timeframe established

by the contract. DDS discontinued the 2012 contract and entered into a second contract with PBPA for a different DDS population, with a maximum number of assessments at 5,000. To date, PBPA has completed 3,600 assessments with 2,100 scheduled. Mr. Robinson said that part of the assessment involves assessors coding DDS clients' responses. Once an assessment is completed, the assessors enter their case notes into the system where an algorithm determines the tier of service needed for the DDS client. Pam Cooney, Services Coordinator, PBPA, told legislators the assessments are conducted based on a list of DDS names provided by DDS.

Craig Cloud, Director, Aging and Adult Services, DHS, and Melissa Stone, Director, Division of Developmental Disabilities Services, (DDS) DHS, were sworn in under oath by Representative Hammer. Ms. Stone told legislators she began working on the PBPA contracts in January 2015, prior to assuming the position as DDS Director in January 2016. During that time period, DDS was moving forward with the Medicaid Community First Choice Option (CFCO) using the interRAI assessment tool normed for the elderly and nursing home population. The University of Michigan, the owner of the assessment tool, developed a version of the assessment tool capable of assessing the entire disabled population. Ms. Stone conducted a mass assessment of the entire Arkansas disabled population in 2012 using the assessment tool developed by the University of Michigan. The maximum number of assessments was set at 5,000. DDS then learned the CFCO would not be moving forward. However, the data had already been collected and provided to the University of Michigan. In 2015, DDS chose to continue assessing the DDS waiver population and retained the maximum number of assessments at 5,000 in its contract with PBPA.

Representative Hammer recognized Mr. Cloud for an overview of the assessments conducted by the Division of Aging and Adult Services DHS, population. Mr. Cloud said the interRAI assessment tool used to assess the aging population and included a specific tier level of payment attached to the assessment results. It also generated an allocation of resources and developed a plan of care. Mr. Cloud was asked why the assessment tool his agency used could not be used for the DDS population. Mr. Cloud explained that the interRAI assessment tool was normed for use in the elderly and nursing home population. Additionally, adjustments to the assessment tool were made for its use to assess the physically disabled population.

Ms. Stone addressed her concerns regarding the use of the interRAI assessment tool for the DDS population. She said its use would have to be reported in DDS waiver documents sent to the Centers for Medicare and Medicaid Services (CMS). She also said there are a number of states that are being sued for having used the interRAI tool to assess the disabled populations in their states. Ms. Stone was asked to prepare a report with the amount of monies originally projected as savings compared to the actual amount of money spent by the Department for the assessments. She was also asked to prepare a cost analysis of the DDS wait list population through either a capped or tiered waiver.

Continued Discussion of the Policies and Procedures, Goals and Direction of the Division of Children and Family Services (DCFS), Arkansas Department of Human Services (DHS)

Cecile Blucker, Departing Director, DCFS, and Mischa Martin, Incoming Interim Director, DCFS, DHS, were sworn in under oath by Senator Clark. Senator Clark thanked Ms. Blucker for her service to the state during her tenure as director. Ms. Blucker gave a presentation reflecting on her tenure with DCFS. She said within the entire child welfare system there are perceptions and realities. A perception many believe is that the majority of caseloads DCFS investigates involve physical or sexual abuse. But, in reality the majority of the DCFS investigations involve dependency-neglect cases. Ms. Blucker said another perception was her failure to hold judges accountable. The perception is she should have filed judicial complaints against judges who were known to not follow state laws. One issue is judges who do not provide notification to DCFS in cases involving Families in Need of Services (FINS) as is statutorily required. Another issue concerns Pulaski County Juvenile Court Judge Patricia James who has issued a standing order prohibiting DCFS to present testimony that includes recommendations to place child/children with relatives. Ms. Blucker said DCFS staff has been subjected to repercussions, retaliation, and jail time should they disobey Judge James' order. Ms. Blucker told legislators it is her belief the DCFS workers should be allowed to perform their jobs based on their training, keep families together, and allow the placement of children with relatives when it is deemed appropriate. Ms. Blucker told legislators she has met with Judge James and discussed the Structured Decision Making training and other evidence based programs used by DCFS.

Ms. Blucker then addressed the perception that she has not held DCFS staff accountable. She said the reality shows in the number of disciplinary actions implemented by the agency. DCFS personnel records indicate 112 disciplinary actions filed from March 2007 to March 2010. 126 disciplinary actions were filed from March 2010 to March 2013, and 396 disciplinary actions were filed from March 2013 to March 2016. She then gave the example of one case where an employee falsified records. Disciplinary action was taken and the employee chose to pursue all processes and appeals allowed, which extended this case for three years. Ms. Blucker suggests the state's personnel policies be reviewed because of the obstacles agencies face when they attempt to terminate an employee. She also suggests DCFS be allowed some flexibility in its hiring practices and salary structure. Ms. Blucker gave recommendations regarding funding and best use of resources for the child welfare system. There is an option called Differential Response, which provides an alternative method in responding to priority-two investigations. Priority-two investigations include findings of inadequate food, clothing or shelter, and environmental neglect. Ms. Bucker said a Differential Response is a more strength-based approach. Another suggestion concerns removing the acceptance of educational neglect, which many states do not have.

Senator Clark recognized Mischa Martin, Incoming Interim Director, DCFS. Ms. Martin spoke about her vision for DCFS and referenced a consultant's report, the Paul Vincent Report on child welfare and policy including a review of DCFS. She told legislators this is a perfect time to make changes in the system. She suggests increasing child placements in non-profit faith-based organizations, such as The Call and others. Ms. Martin was asked to prepare a list of possible placement options.

Legislators discussed possible legislative oversight of the child welfare system allowing legislators to meet with DCFS in a format similar to an executive session. Discussion was also held regarding the possible creation of an Ombudsman Office to oversee quality assurance for the child welfare system.

Senator Clark recessed the meeting at 12:30 p.m.

Representative Hammer reconvened the meeting at 1:30 p.m.

Continued Overview of the Structure, Services, and Training Programs for DCFS/DHS Employees Provided by Hornby, Zeller Associates (HZA)

Greg Moore and Chantel Barber, Arkansas Quality Assurance Unit, HZA, were sworn in under oath by Representative Hammer. Ms. Barber gave an overview of the training programs HZA provides to the Division of Children and Family Services (DCFS), DHS:

- A training model for Structured Decision Making was developed following a federal review performed in Arkansas in 2008
- The focus of the training is identifying safety concerns and immediate dangers to children
- Beginning February 2015, DCFS employees in New Worker Training classes were automatically registered to attend HZA Structured Decision Making training
- A 19-page document with guidance on what constitutes immediate danger is given to DCFS workers at the training classes

Ms. Barber said a major component of the training is how to determine situations of immediate danger to a child. Two options are provided to DCFS caseworkers when a threat is identified:

- Implement a protection plan consistent with legal advice provided by the DCFS Office of Chief Counsel
- Removal of the child/children from the home

Representative Hammer recognized Greg Moore. Mr. Moore discussed the types of training HZA provides to DCFS employees in comparison to the New Worker Training programs performed by MidSOUTH, University of Arkansas at Little Rock (UALR). He said Title IV-E, the federal funding source for the child welfare workforce is solely focused on foster care and its administration. MidSOUTH cannot provide training in investigations due to funding restrictions in Title IV-E. These restrictions prevent MidSOUTH from offering investigative training in its New Worker Training program.

Mr. Moore then discussed a meeting with Cecile Blucker and Juvenile Court Judge Patricia James to address concerns by DCFS staff. Mr. Moore said that Structured Decision Making training and other interventions that Arkansas is implementing for the protection of children were specifically discussed during the meeting.

Practicing Parent Counsel Representing 150-250 Parents Per Year Whose Children Have Been Taken into Custody, Provide Testimony Explaining the Process from the Prospect of the Parents and Their Attorneys, Discuss Improvements to the System and Offer Proposals that Should Result in the Maintenance and Reunification of Arkansas Families [Exhibit H]

Senator Clark told committee members that Mr. Glenn Hoggard will give a brief review at today's meeting and present a more in-depth review at the JPR Committee meeting scheduled for Thursday, April 14, 2016.

Glenn Hoggard, Parent Counsel attorney, was sworn in under oath by Representative Hammer. Mr. Hoggard told the legislators that as a Parent Counsel attorney he is appointed to represent parents in dependency-neglect cases whose child/children have been removed from their home and cannot afford to hire an attorney. Mr. Hoggard's practice covers four counties and two judicial districts. He said that in a typical work week he presents six cases each day in different courts. His current caseload includes 80 families whose children are in the foster care system. Mr. Hoggard referenced testimony presented during the JPR Committee meeting held on Thursday, March 17, 2016 by Senator Jeremy Hutchinson. He agrees with statements made by Senator Hutchinson concerning the need for structural changes to the Parent Counsel program. Mr. Hoggard said the Parent Counsel attorneys have begun work on a legislative packet to be presented during the 2017 legislative Session. He believes the proposed legislation will provide solutions to remedy situations that hinder the Parent Counsel attorneys in their representation of parents and families.

Senator Clark announced the upcoming JPR Committee meeting scheduled for Thursday, April 14, 2016.

There being no further business the meeting adjourned at 2:45 p.m.