

# EXHIBIT B

## Minutes

### Senate Interim Committee on Children and Youth House Interim Committee on Aging, Children and Youth, Legislative & Military Affairs, Meeting Jointly with Senate Judiciary Committee and House Judiciary Committee

Wednesday, August 13, 2014

1:00 p.m., Big Mac A

Little Rock, Arkansas

The Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative & Military Affairs, met jointly with the Senate Interim Judiciary Committee, and the House Interim Judiciary Committee on Wednesday, August 13, 2014 at 1:00 p.m. in Committee Room A of the Big Mac Building in Little Rock, Arkansas.

Committee members present were: *Senator* Stephanie Flowers, Chair; and Jonathan Dismang. *Representatives* David Meeks, Co-Chair; Marshall Wright, Chair; John T. Vines, Vice Chair; Randy Alexander, Jody Dickinson, Jeremy Gillam, Patti Julian, Mark McElroy, Jim Nickels, John Payton, Sue Scott, and Mary L. Slinkard.

Non Committee members present: *Senator* Joyce Elliott. *Representatives* Bob Ballinger, John Burris, Charlotte Vining Douglas, Kim Hammer, Sheilla Lampkin, Josh Miller, Betty Overbey, and Hank Wilkins.

#### Consideration to approve minutes of June 4, 2014 and June 12, 2014: [EXHIBIT B1-B2]

Without objection minutes were adopted and approved.

Final Report of the State Task Force for the Prevention of Human Trafficking, Brad Phelps, Chief Deputy Attorney General. [HANDOUT #1] Mr. Phelps introduced Mr. J.P. French, Chief, Special Investigation Division, Arkansas Attorney General's Office. Mr. Phelps briefly discussed the development of the report and some of the background on human trafficking. He stated that in 2013, the General Assembly passed Acts 132 and 133, also known as the "Arkansas Human Trafficking Acts". These acts empowered the Attorney General to create a task force to investigate the issues surrounding human trafficking in Arkansas. The 40 member task force was split into four committees: (1) Coordination, Collection, and Sharing of Information Committee, (2) Establishment of Policy on Victims Committee, (3) Public Awareness Committee, and (4) Timeline and Law Enforcement Training Committee. The Task Force adopted 19 recommendations as its State Plan based on information gathered from surveys and focus groups, as well as the investigations and discussions of the Task Force and its committees.

Senator Elliott **pointed out** two issues with human trafficking, one being prostitution by choice and the other being the history behind the Human Trafficking Act. She asked Mr. Phelps, how they handle prostitution that is by choice. Mr. Phelps replied, that in the past, many cases were handled as prostitution cases and now that they are more educated on the matter, some are still cases of prostitution and some are handled as trafficking cases. He stated that the purpose of the report was to put everyone on notice about, and to bring awareness to the issue. Senator Elliott recommended that the report reflect that the first Human Trafficking legislation was initiated in Arkansas in 2005, legislation that she sponsored.

Representative Meeks asked that any recommendations for legislation for the 2015 legislative session be shared with the committee for discussion at a future meeting.

**Arkansas State Police, Crime Against Children Division (CACD), Oversight Report-4<sup>th</sup> Quarter Fiscal Year 2014, April-June 2014 [EXHIBIT D]** Captain Ron Stayton, Division Commander, CADC, was recognized. He discussed improvements in the closing of some cases within the 45-day time period. The number of cases opened was 1,410 with a 43% substantiated rate. During the quarter 16,444 reports were made, with 8,192 reports accepted. The total cases submitted to Prosecuting Attorneys was 248, the total charges filed was 104 and 50 cases were pending.

Senator Flowers asked that more detailed information be provided in the report on the type of relationship the offender has with the alleged victim. Captain Stayton stated he will look into providing more detailed information about the "no relationship" category.

Representative Wright expressed concern about the 42% of cases submitted to the respective Prosecuting Attorney's Office (PAO). Captain Stayton stated that they felt this a good rate because there is usually no physical evidence and no medical evidence. There is usually a reliance on the victim's statement or law enforcements ability to obtain an admission or confession from offenders. He stated that he recently met with prosecutors to discuss the report, and noted that CACD's decisions to submit cases are based on a preponderance of evidence. He explained that the POA determines whether or not there is sufficient evidence to prosecute the offender and not the law enforcers. The CACD findings along, with law enforcements criminal investigation information (upon completion) is submitted to the POA. Representative Wright asked if more standards could be enforced before these cases are submitted to the prosecutors. **Mr. Bob McMahan, Prosecutor Coordinator, Arkansas Prosecutor Coordinator Office**, was recognized and noted that as long as you are dealing with two separate standards one for the law enforcers and another for the prosecutors you will have the numbers issue regarding case referrals. One standard being preponderance of evidence and one being reasonable doubt; there will likely be questions regarding the 42% referral rate. With this difference in the burden of proof this is a valid concern.

Sen Flowers clarified that there is another step in the process beyond the true finding; that of law enforcement (investigation to determine if there is enough criminal evidence). She reiterated that it is the duty of CACD to determine if there is child maltreatment and prosecutorial discretion is exercised, to determine if the evidence warrants prosecution. If there is error in the process it should be on the side of safety for the child.

Senator Flowers noted issues for offenders who are falsely accused. Their access to justice and offender names being placed on the Child Maltreatment Registry as related to this process; she summarized by stating this may be a legislative matter as this does place limitations on a person's rights in moving forward.

**Department of Human Services (DHS), Division of Children and Family Services (DCFS), Quarterly Performance Report, January 2014-March 2014 [EXHIBIT E] Cecile Blucker, Director, DCFS,**

was recognized. Ms. Blucker reported that the national standard for true findings in child maltreatment cases is 19%; Arkansas is above that standard at 23%. There are concerns about the timely initiation of child maltreatment investigations: DCFS has met with area directors on some of the review findings and supervisors who did not initiate review of cases in a timely manner have been notified. Changes to assist in these areas are in place and being monitoring. The placement stability of children is one of the weakest measurements; however, DCFS is making strides to improve. The longer children remain in the system the more moves they have and the older they are the more moves they have. The agency is addressing this issue.

Of children who return home within 12 months DCFS is at 59% above the national standard of 48%. DCFS is below the national standard of 9.9%.for children re-entering foster care at 9.8%. The length of time from entry into foster care until finalization, the national standard is 27.3 months and DCFS is down to 21.6 months with things in place to bring this number down even more.

The average caseloads for the last quarter were 27.2, that number is currently at 29.3. New positions have been assigned to the field and DCFS is working to get new hires on board. There were 1241 licensed foster family homes at the end of the quarter and .75 beds to each child in foster care. DCFS recruited 161 brand-new homes that were available to take children, and of the existing foster homes, 161 of those closed during the same quarter.

Senator Flowers asked about the allegations of foster care maltreatment reports, specifically as relates to the unsubstantiated cases section of the report, "are these reports by the child"? Ms. Blucker replied "yes". Senator Flowers asked if the child is then removed from the foster home, if unsubstantiated. Ms. Blucker responded that they try to salvage the relationship; the child is not always removed from the home. Only a few relationships have been salvageable. The court is informed of the allegations as well as the ad-litem. DCFS wants to insure that there is not a "Do Not Remove Order" in place before taking action. Although, legislation was passed in the last legislative session that would allow DCFS to remove a child in an emergency situation without court approval as a courtesy the agency would inform the ad-litem and the judge of this move.

Sen. Flowers indicated that the Differential Response efforts seem to be working well. She asked for more explanation as to why children are being removed from their homes, specifically referencing parent being incarcerated and drug use. Ms. Blucker stated that the reasons for removal are a combination of both drug use and incarceration. The drug use really depends on the area of the state being referenced. It was noted that Sebastian County is an area where there is a lot of meth use. As a result there are some horrific cases of environmental neglect in that area of the state. In a 2 month period, 80 children were removed from homes in Sebastian County. DCFS also sees a lot of marijuana

use; this drug is most associated with the reports of child fatalities and near fatalities. They are also seeing a lot of prescription drug use; it really depends on which area of the state you are looking at.

Representative Meeks asked about information he received from the Office of Refugee Resettlement in Washington D.C. specifically as relates to 166 children being placed in Arkansas. He asked Ms. Blucker if she was aware of any of these children being placed in foster homes. She stated that to her knowledge none have been placed in any of the Arkansas foster homes. He emphasized that the only way these children could end up in the foster care system is that there is an allegation of maltreatment. His concerns are placing children in homes where there is a language barrier. Ms. Blucker responded by stating that DCFS is prepared to handle language barriers, noting that DCFS has foster families that speak Spanish as well as staff members, and interpreter services are available. The problem that she foresees is with unaccompanied minors, there would be no federal funds available to serve this population and SGR would have to be used.

Representative Hammer asked about the cost to the state as relates to undocumented children coming into the state. Ms. Blucker indicated that there has been no cost to date for DCFS because no children have been placed in any DCFS foster homes. DCFS's concern is that they be notified if children are coming into the state and that placements are well vetted for safety.

Senator Flowers and Representative Meeks encouraged committee members to continue to be in contact with their federal representative on the issue of undocumented children. They asked that DCFS keep them informed of any activities and requests for service related to this population.

Representative Julian asked Ms. Blucker for DCFS's position on co-sleeping. Referencing sources that support co-sleeping as a "good thing" for child development. Ms. Blucker stated that it is a very controversial issue and one that is involved in many of the child fatality cases they see. She explained that the agency is trying to get out information about the dangers of co-sleeping by getting information to clients and through public announcements; this is difficult when you have studies advocating co-sleeping as the best thing from a bonding standpoint. When you have co-sleeping mixed with substance abuse, this is where problems come in. Ms. Blucker noted only two deaths involving co-sleeping and 4 with suffocation as cause of death.

Senator Elliott and Representative Scott asked questions about specific cases where adoptions have taken long periods of time with very little contact from the agency. The specifics will be shared with Ms. Blucker and she will follow up. Representative Meeks discussed the CALL (Children of Arkansas Loved for a Lifetime) and the organization's efforts in assisting people in the adoption process. He suggested that DCFS worker caseloads may be an issue with delays in adoption stating that this should be addressed in the 2015 legislative session.

**Department of Human Services (DHS), Division of Youth Services (DYS), Quarterly Performance Report, April-June 2014 [EXHIBIT F], Carmen Mosley-Sims, Assistant Director, Community Based Services, DYS,** was recognized. She stated in the fourth quarter of State Fiscal

Year (SFY) 2014, the number of juvenile offenders in state custody decreased from 747 reported in the previous quarter to 731 in the current quarter. This was due to releasing a large number of youths in April.

Recommitments comprised 20%: 22% were for felonies, 41% were for misdemeanors and 37% were other, which includes revocation of probation and revocation of after care. Of the first time commitments which comprised 80 %: 42 % were for felonies, 32% were for misdemeanors and 26% were other (revocation of probation and revocation of aftercare). Of all commitments, 38% were for felonies, 34% were for misdemeanors and 28% were for other (revocation of probation and revocation of aftercare).

There are a disproportionate number of African Americans commitments at 50%, while the state demographics show a total 15 % African American population. DYS is very concerned about the disproportionate minority contact within all stages of intervention within the Juvenile Justice System and particularly as relates to African American males.

Of the commitments by gender 87% were male and 13 % were female. Of the males 34% were committed for misdemeanors, 41% were for felonies, and 25% were for revocations. As relates to females 50% were for revocation violations of probation or after care, 33% were for misdemeanors and the remaining 17% were for felonies. For African Americans 38% were committed for misdemeanors, 31% were committed for felonies and 31% were for revocations.

Sen. Flowers asked where these first time commitments for misdemeanors are coming from and what is the average length of stay. Ms. Mosely-Sims stated that DYS is very concerned about the numbers related to first time offenders and misdemeanors and while she did not have the information requested she would provide that information to the committee. She speculated that some of this may be the results of persons in positions of authority feeling they have no other alternatives or options. The Juvenile Justice Conference planned for October will address these concerns.

In light of the 20% of children who are in foster care as results of incarcerated parents; Sen. Flowers also asked that **DYS provide the number of youths that are in DYS custody who have parents who are incarcerated.**

Ms. Mosley-Sims continued by noting that most of the children coming into custody are between the ages of 15 and 17 with some being age 14 (13%). There are more commitments as children age. White males showed a higher felony commitment rate while African American males were slightly lower; for misdemeanors African American males showed a higher commitment rate while White males were lower. Of all female commitments they are equally represented for felony and misdemeanor commitments.

Regarding the population by program type, the majority of the youth in custody are in after care programs, the remaining children are all in residential programs. While children who are in the Juvenile Detention Centers receive services they are not receiving the recommended treatment as

recommended by their treatment teams. This remains a concern of DYS and they want to see those numbers reduced within the next couple of months.

Most of the community based services being provided are not for after care service but rather for FINS (Families in Need of Services) involving children who have not been in contact with the Juvenile Justice System. Of the cases of maltreatment reported to CACD a total of 12: 9 are pending, 1 was founded and 2 were unfounded. Related to commitments by district there are greater number of commitments from the more populated areas. Benton and Washington Counties show very low commitment rates for the population sizes this is due in part to the Juvenile Detention Alternative Initiative implemented in those counties. This program has been successful.

Senator Flowers asked if the program is federally funded. Ms. Mosley-Sims replied, DYS funded \$50,000 and there is still money available from those funds. Once the funds are exhausted DYS will have to revisit funding this program and will be looking into funding for expansion into other counties. Senator Flowers asked if there is match funds provided by those counties. Ms. Mosley-Sims indicated the counties are funding the services they are providing and DYS assists in the funding for technical assistance as well as funding from the Annie E. Casey Foundation.

Regarding commitment by charge, revocations of probation represents the highest number while theft of property is the next highest. Senator Flowers asked if DYS can **provide the total number of youth committed by age**, not just for the quarter being reported, but the overall number of commitments. Sen. Flowers asked that this information be provided each quarter, not just in the annual report. Senator Flowers expressed concern about 11 year old children who are committed to DYS. Ms. Mosley-Sims clarified that the 11 year olds are not kept in the same area as older children. Sen. Flowers requested information regarding the ages of children in the different centers.

There being no further business, the meeting adjourned at 3:30 p.m.