

MINUTES
State Advisory Committee on Juvenile Justice and Delinquency Prevention
October 15, 2014

Board of State and Community Corrections
660 Bercut Drive
Sacramento, CA 95811

The State Advisory Committee on Juvenile Justice and Delinquency Prevention (SACJJDP) meeting was called to order at 10:40 a.m.

The following Committee members were in attendance:

Ms. Sandra McBrayer, Chair	Mr. James Anderson	Honorable Brian Back
Ms. Carol Biondi	Ms. Susan Harbert	Mr. Gordon Jackson
Chief Susan Manheimer	Mr. Winston Peters	

Agenda Item A Approval of the SACJJDP January, April, and July 2014 Meeting Minutes

As two SACJJDP members were still in transit at the beginning of the meeting, Chair Sandra McBrayer tabled this agenda item until later in the meeting when a quorum was present.

Returning to this agenda item following Agenda Item I:

Judge Brian Back moved to approve the January 2014 SACJJDP minutes and Ms. Susan Harbert seconded; all were in favor, none were opposed, none abstained.

Ms. Susan Harbert moved to approve the April 2014 SACJJDP minutes and Judge Brian Back seconded; all were in favor, none were opposed, none abstained.

Mr. James Anderson moved to approve the July 2014 SACJJDP minutes and Mr. Gordon Jackson seconded; all were in favor, none were opposed, none abstained.

Agenda Item B

Chair and Staff Updates

Chair McBrayer updated the Committee on the new administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and his three-prong approach of outreach to state advisory groups (SAGs) across the state/nation. Specifically: 1) asking for further input from the Coalition of Juvenile Justice (CJJ), which happened in June 2014; 2) continuing to ask for input from associations/groups to hear what they have to say, from status offenders to the authorization of the act [Juvenile Justice Delinquency Prevention Act (JJDP)]; and, 3) communicating with the states, which has already happened for California and Board of State and Community Corrections (BSCC) staff were included on the call. The OJJDP is committed to providing training, both on what the requirements are within the act and on how to recruit new members/engage young people. Committee members may be able to access this training in early 2015. Also, Chair McBrayer will send the Committee a link to the OJJDP's newly released tool kit for SAGs.

Chair McBrayer's second update was on Reducing Racial and Ethnic Disparities (R.E.D.), which has been changed from Disproportionate Minority Contact (DMC) to R.E.D. on a federal level. Previously, states were struggling with DMC (e.g., who is considered a minority in a majority minority state). R.E.D., however, looks at reducing racial and ethnic disparities, not just in a minority population but at how people of color are treated in the system; it is a much broader perspective. There are some new R.E.D. grantees from California (Mono, Stanislaus, Santa Barbara, and San Joaquin), and those grantees were hosted in New York last week for the Positive Youth Justice Initiative. They got to sit in and hear to hear how cities, counties, and states are working on juvenile justice reform, including New York and Washington, D.C.'s reform efforts. The group visited the Neighborhood Opportunity Network (NeOn) program sites in Harlem and South Bronx, and some of the highlights were the real effort on culture change in those agencies (e.g., changing terminology from probationers/offenders to clients; in juvenile halls they do not have secure detention, they have treatment facilities; they do not talk about institutionalization, they talk about treatment, etc.). Probation is also co-located in community facilities; for example, probation is located in a building that has a non-profit providing gardening, a non-profit providing some social services, a charter school, etc., so services are easily accessible to their clients. Chair McBrayer talked to representatives from both New York and Washington, D.C. about coming and sharing with the SACJJDP some of the things they are doing to address and identify the young people in their system, and how to make sure they are successful and exit, not enter the system.

Chair McBrayer then updated the Committee on the following state grants/funding opportunities:

- The Edward Byrne Memorial Justice Assistance Grant (JAG), which is due in November 2014. Historically, this grant was used by law enforcement for suppression efforts, but the focus now is both on education/prevention and law enforcement and indigent courts. It requires the formation and/or identification of a steering committee made up of both adult and juvenile providers and the sheriff and district attorney coming together to develop a plan. Large counties can apply for \$1.1 million.
- Senate Bill (SB) 81, Round 2 is out and is due on December 19, 2014. This provides \$79.2 million for juvenile institutions in California. The key thing is repurposing – looking at the needs of a facility (e.g., video conferencing, mental health, classrooms, etc.) and not necessarily building a new facility, but repurposing it to make it more community/family friendly.
- The Community Recidivism Reduction Grant is another opportunity; it is an actual allocation to counties based on their size. Key to this grant is that it has both the words ‘adult’ and ‘juvenile,’ so some of those funds can be used for juvenile recidivism prevention. This is a direct allocation to each county and 95% of the funds must be allocated to community-based organizations.
- Title II Formula Grant will be expiring December 31, 2014, and an Executive Steering Committee (ESC) is being formed to choose the new purpose areas; purpose areas for the previous three years included evidence-based practices, R.E.D., etc.
- There will be a grant released on November 14, 2014 for probation departments to continue training for evidence-based practices. The grant will be small, but will afford departments the opportunity to say where they are at in their system and what product(s) they need to continue evidence-based practices and principles in their system.
- The Mentally Ill Offender Crime Reduction (MIOCR) grant provides \$18 million statewide, divided into \$9 million for juveniles and \$9 million for adults. A MIOCR ESC will be held on November 18, 2014, and they hope to make awards in June 2015.

Kathleen Howard, Executive Director of the BSCC, then talked about membership on the Committee, roles and responsibilities of the various committees, and linkages to the Board. She spoke of her commitment to maintaining the BSCC’s focus and recognized the central role committees play in the work of the BSCC. She also wanted to ensure all were in agreement with the roles and responsibilities of each committee (e.g., SACJJDP, Juvenile Justice Standing Committee [JJSC], Juvenile Justice Data Working Group [JJDWG]) and wants to strengthen the linkages between the various committees and to the Board. Skipping ahead to the pepper spray discussion, Ms. Howard requested that the Committee keep her informed in this process; and if the Committee had any recommendations, that there was an opportunity for the Board to be involved in whatever way was appropriate. Ms. Howard then thanked the Committee for their dedication to this important work and opened the floor to questions:

- Chair McBrayer asked Ms. Howard if BSCC leadership was working on developing a plan for the Committee’s communication with the full Board. Ms. Howard responded that she would work on a plan for a ‘regular, ongoing reporting relationship’ to the Board to be ready for the January 2015 SACJJDP meeting.
- Chair McBrayer raised a question related to the attendance rules for the SACJJDP – if there was a way to look at attendance issues and appoint new SACJJDP members. Chair McBrayer expressed her concern regarding the non-compliance of the SACJJDP membership; that funds can and are being withheld from states that do not have the right youth membership/that there is authority to withhold a percentage of funds based on non-compliance of membership. The Committee discussed the vetting process for new members and agreed that it was important to continue this conversation, looking at the spots that are opening, and emphasizing what is at stake financially if the SACJJDP does not have the right membership. Chair McBrayer thanked Ms. Howard for her commitment to both these issues.
- Mr. Winston Peters asked about the differences between the SACJJDP and the JJSC. Ms. Howard answered that the SACJJDP is required under Title II and its members are appointed by the governor, and the JJSC is a standing committee appointed by the Board. BSCC staff explained that the SACJJDP works on state funding issues and the JJSC has those issues pertaining to state functioning (e.g., juvenile hall inspections, Title 15, regulatory issues, etc.). Chair McBrayer further shared that both committees are moving forward on some of the same issues, but there is very clear guidance for the SACJJDP in the JJDPA (e.g., compliance, grant dollars, looking at juvenile justice reform and advising both the governor and legislature, etc.) that is different from the JJSC. Chair McBrayer shared that having both committees allows the SACJJDP to work in concert with a broader group with more stakeholder input, and that the committees are working closely together to make sure each committee knows what the other is doing.

Agenda Item C**Review of Proposed Legislation for Support or Opposition**

Chair McBrayer called the Committee's attention to Assembly Bill (AB) 420, which eliminates willful defiance as an option for suspension or expulsion depending on the grade; AB 227, which states youth leaving the justice system need to be immediately enrolled into their home school (with some restrictions); SB 1111, which prohibits the involuntary immediate enrollment into court/community schools; SB 1296, which bans incarceration for truancy offenses; and AB 2607, which limits secure detention for dispositional hearings and gives guidance as to what the delay can and cannot be. She also called the Committee's attention to AB 2195 as a bill to watch as it is implemented and its effect on local communities. There was group discussion about the impact some of this legislation is already having on local communities, as well as discussion regarding school restorative justice practices and having the Committee look into incorporating these in future granting. Committee members felt there were going to be upcoming opportunities for important collaborative work.

Agenda Item D**Reducing Racial and Ethnic Disparities Update**

Field Representative Shalinee Hunter highlighted the four new R.E.D. county grantees (Mono, San Joaquin, Santa Barbara, and Stanislaus) that were approved at the September 2014 Board meeting, and the opportunity those grantees had to travel and see the NeOn Program in New York. It was critical for those four counties to see the focus on community engagement, particularly at the beginning of their grants, and the NeOn Program is known for that aspect. The grantees had the opportunity to see how other states are working with community engagement, and the feedback from the participants has been good. Ms. Hunter will be coordinating a debrief with the grantees in three to four weeks to make sure what they learned is applied to their grants quickly, so that their community partners are involved from the beginning and are at the table when they begin looking at how to reduce racial and ethnic disparity. There was a group discussing regarding the differences between DMC and R.E.D. (e.g., 'minority' versus 'race and ethnicity' and R.E.D.'s focus on looking at disparate treatment/services) and the broader perspective this affords.

Ms. Hunter also updated the SACJJDP on the leftover funds of approximately \$300,000 that was brought back to the R.E.D. Committee, which is currently considering how best to utilize/reallocate these funds. Tentatively, they are considering regional trainings for the original 13 grantees to foster learning, sustainability, and provide technical assistance. The goal would be to give them the opportunity to come back together, talk about where they are now, and what they can do to sustain their initiative after the fact, as well as bring in the expertise needed to address trends in their counties. Ms. Hunter is researching this option currently and hopes to have a formal plan to present at the January 2015 SACJJDP meeting.

In other R.E.D. updates, Ms. Hunter shared that the BSCC is looking at putting together a small in-house workgroup to expand looking at areas they could improve internally on R.E.D. issues. Additionally, the BSCC is working with the state interagency team to deliver a pilot program with the Department Social Services using the racial impact statement. This statement is a mechanism to help staff recognize whether or not they have looked at their policies, Request for Proposals (RFP), legislation, etc., to ensure they do not have unintended consequences for the population they are trying to serve.

Agenda Item E**Pepper Spray Policy Discussion**

Chair McBrayer prefaced this discussion with some history. Specifically, the Youth Law Center brought the overuse of pepper spray in one particular California county to the SACJJDP's attention (and recently the SACJJDP was presented with a formal complaint to the Department of Justice [DOJ] regarding this county's overuse of pepper spray). However, over the course of a year, as this conversation has continued, the SACJJDP has been encouraged to look at this issue in a broader context; it is not just about one county, but as a state (going back to the principles of juvenile justice) what are doing in terms of evidence-based practices. Less than a quarter of the states allow the use of pepper spray as a state policy in their juvenile detention facilities, and among those that do, there are limitations. It was proposed that the SACJJDP have a formal presentation to look at, through the state lens, policies, evidence-based practices, and what other states are doing. The purpose of this agenda item is to start a conversation; to look at the juvenile justice efforts at a state level and do comparison with other states – how pepper spray is used, why it is used, how California is using it versus other states, what are the advocates for and proponents against saying, etc., so the SACJJDP has a better determination on where they want to go next or if they want to develop recommendations.

Ms. Hunter then reported on the academic material she found regarding the use of pepper spray, including academic resources and research that indicates it is less useful in custody, and academic reports that discuss the use of pepper spray in a more positive light outside of custody. Essentially, pepper spray (or oleoresin capsicum [OC]) is a compound that irritates the membranes of the eyes, mouth, nose, and lungs, and is meant to incapacitate an individual; depending on the health or wellness of the individual, the impact differs. It is

typically used in the use-of-force continuum and for the safety of youth and staff. Points shared from the various data sources included:

- pepper spray is often applied as punishment rather than as a response to immediate threats of violence;
- de-escalation techniques (verbal skills) are less utilized if person is carrying pepper spray on their person;
- it cause physical and emotional pain in the youth;
- there is an emotional impact on staff when utilized;
- there is a seeming increase in staff/youth injury;
- there is an increase of suicidal behavior;
- it causes fear among youth; and,
- nearly 90% of juvenile correction facilities nationwide are not authorizing staff to carry pepper spray on their person in secure facilities (which is a different issue from if pepper spray is located in a facility/unit).

Ms. Hunter also shared that in California, the BSCC inspects for Title 15, Section 1357, Use of Force. This code states that agencies' use-of-force policy must include a system for investigation of the use of force and an administrative review, and a standardized format/procedure for reporting the type of force. The BSCC inspects to the code, so they do not have the authority to go in and say if an agency is overusing pepper spray or not, only to inspect if there is a policy on record if the agency is using it. The DOJ uses of pepper spray and has their own reporting mechanism for use of force, including pepper spray – they have same requirement as the counties. The primary argument for the use of pepper spray is that there is a cost saving/reduction in workers compensation claims (e.g., preventing custody staff injury). The argument against the use of pepper spray is that best practices emphasize verbal de-escalation techniques, and pepper spray use has been found to increase youth's violence toward others and contributes to post-traumatic stress disorder and suicidal behavior.

There was a group discussion regarding this presentation, with SACJJDP members expressing the following various concerns:

- Chair McBrayer shared that major city chiefs already have a national policy in place against the use of pepper spray on pregnant women and children, and studies have shown an increase in the use of pepper spray if it is on staff's person instead of them having to get it out of a locked cabinet.
- Chief Susan Manheimer expressed that there is a use-of-force ladder, starting with verbal de-escalation and moving to an intermediate use of force, pepper spray, before moving on to Taser, baton, and lethal force. The concern is if the intermediate use of force (pepper spray) is removed, then the baton or a physical restraint/compliance hold may be the next step after verbal de-escalation, which needs to be considered realistically in this discussion.
- Mr. Peters shared that 30 to 40% of the population have some kind of mental disorder, and that he was trying to reconcile that population and their disorders with the use of pepper spray. However, on the other hand, he was torn by the fact that if a tool was taken away that it could escalate to something else, so the Committee has to consider this also.
- Multiple SACJJDP members shared that the Committee would be remiss if they made any kind of policy statements/recommendations without input from someone in probation, but that this is an issue that needs continuing discussion by the Committee.

Chair McBrayer concluded that for the Committee to have a rounded perspective, it would have to understand both the national landscape and the California landscape, which requires more information. Also, there are questions the Committee needs answers to, starting with the national level, such as how many states allow pepper spray in their facilities and how many allow it to be carried on staff's person; and for those who have banned pepper spray, the Committee needs to look at the national research and see if there was any escalation of injury or harm/higher levels of use of force and what steps were taken if it was decided to lock up pepper spray or ban it outright. For California, the Committee needs answers on who is using it, how they are using it, are they locking it up, and to what extent it is being used, as well as what is the ethnicity/race and gender of those who are pepper sprayed. The intent of the Committee is to simply gather more information to see if this is a statewide issue or a handful of counties' issue, and if California is in line with national standards for the use of pepper spray. Ms. Hunter expressed that she needed to confer with the BSCC management team regarding the use of staff to make those inquiries, and Deputy Director Allison Ganter committed to bringing this to the BSCC's Executive Director (as far as resources, what staff can do, and what questions they can ask and how) and getting back to the Committee.

Chair Sandra McBrayer, with the Committee's agreement, made a formal recommendation for staff as staff and/or as consultant to get information both on the national landscape and California landscape on the questions discussed earlier, with the goal of providing a better picture and including this for discussion on the agenda for the January 2015 SACJJDP meeting.

Title II Formula Grant Request for Executive Steering Committee to Develop Request for Proposals

Agenda Item F

Ms. Hunter presented this agenda item requesting the establishment of the Title II Formula Grant ESC and approval of the associated RFP timeline. Current Title II funding is coming to an end in December 2014, and the SACJJDP was requested to appoint one member of this ESC for the RFP to administer the \$3 million in available Title II funds. The three areas will be evidence-based practices, R.E.D., and strategic support. The framework for this ESC will be systems improvement and evidence-based practices, and the ESC will have an opportunity to identify program purpose areas that fall within those categories. It is a year-long process, with three formal meetings, and the ESC will be responsible for developing the RFP as it relates to Title II funding and making sure they have the applicants they are hoping to support. Ms. Hunter requested the Committee's assistance with recommendations for the Chair and 11 members of this ESC, and reminded the Committee that all members of the ESC have to have Board approval, so she requested the Committee forward their recommendations to her.

Chair McBrayer added that the SCJJDP will be continually updated on what the Title II Formula Grant ESC is working on, and that members of the Committee were requested to provide recommendations for subject matter experts in the purpose areas to serve on the three meetings from now till October 2015.

The Committee nominated Judge Brian Back as chair of the Title II Formula Grant ESC and he accepted.

Mr. Gordon Jackson moved to approve the RFP timeline and Chief Manheim seconded the motion; all were in favor, none were opposed.

Approval to Release the Request for Applications for the Evidence-Based Practices Training Project Funded Through the Juvenile Accountability Block Grant Funding in the Approximate Amount of \$250,000

Agenda Item G

Field Representative Colleen Stoner presented this agenda item requesting approval for the Request for Applications (RFA) for the Evidence-Based Practices Training Project. In April 2014, the SACJJDP recommended the approval of approximately \$250,000 in Juvenile Accountability Block Grant (JABG) funding for this project, and the Committee recommended that an ESC be formed. Chair Sandra McBrayer and Chief Michelle Scray Brown were established as co-chairs of this ESC by the Board. An ESC was convened in August 2014, and came together to design the RFA and the rating criteria and evaluation. Projects selected through this competitive process will receive funding for training and probation staff and their juvenile justice partners to increase their skills, competency, and proficiency in implementing effective correctional practices. Areas they may seek funding include, but are not limited to, assessment tools, behavioral interventions, juvenile brain development, program evaluation, trauma-informed care, etc. All 58 counties are eligible to apply; however, probation department must be the lead, although they can invite juvenile justice stakeholders/partners into their projects. Probation departments can also apply as a region to join with colleagues in similar counties or adjoining counties. The funding period will begin on May 1, 2015, and end on June 30, 2016. The Committee previously established the following thresholds: a small county can apply for \$5,000, a medium can apply for up to \$10,000, and a large county can apply for up to \$20,000. Counties can increase their training funds if they join forces with other probation departments. Upon approval of this RFA from this Committee and the Board, it will be released on November 14, 2014 to all probation departments and associated agencies. Ms. Stoner requested the Committee's approval to release this RFA.

Mr. Gordon Jackson made motion to approve the release of the RFA (the second was unidentifiable on the recording of the meeting); all were in favor, none were opposed, none recused themselves.

Agenda Item H

Compliance Monitoring Update

Ms. Ganter updated the Committee on the Facilities Standard and Operations (FSO) Division's compliance monitoring activity. The FSO Division inspects for three of the four core requirements of the JJDP and is currently monitoring 1,070 facilities for compliance, ranging from police department lockups to juvenile halls and adult sheriffs' departments. Ms. Ganter summarized the 2013 Compliance Monitoring Report to the OJJDP, and shared that California is in *de minimis* compliance with the Deinstitutionalization of Status Offenders and Jail Removal core requirements. Committee members had questions on *de minimis* compliance. Ms. Ganter explained that based on its population, California gets a rate of violations, and as long as the state stays under that rate for its population, it is considered in *de minimis* (substantial) compliance. The categories are out of compliance, *de minimis* compliance, and full compliance; California is in the middle category because it is over the allowable threshold for full compliance – to be in full compliance there has to be zero violations.

Other points shared by Ms. Ganter included that jail removal violations have decreased over the years and are down 17% from 2012, and that there were zero separation violations for 2013.

Finally, Ms. Ganter shared that there has been and will be many retirements within the FSO Division, which will be losing five of its eight inspectors. Although, the FSO Division has lost their juvenile team, Ms. Ganter confirmed her commitment to making the connection to juvenile justice, rebuilding a strong team, training juvenile justice commissioners, and providing training to juvenile detention facility managers, as well as keeping the focus on juvenile justice issues.

Agenda Item I **Youthful Offender Block Grant / Juvenile Justice Crime Prevention Act – Review of Expenditures and Outcomes**

In the interest of time, this agenda item was tabled until the January 2015 SACJJDP meeting.

Agenda Item J

Future Agenda Items

- Draft communication plan from the BSCC's Executive Director on how the SACJJDP can communicate effectively with the Board and amongst and in between the committees.
- Update on SACJJDP memberships – any activities that have taken place to ensure a full complement of members, both those that are designated and vacancies and also through attendance and those who have not been attending on a regular basis.
- Youthful Offender Block Grant / Juvenile Justice Crime Prevention Act – expenditures and outcomes.
- Update from the JJDWG on their activities to date.
- Dates for OJJDP training and a training plan addressing the roles and responsibilities of SAGs, recruitment of youth, etc.
- Additional information on pepper spray.

Finally, a glossary of common terms was requested by Committee members, and Chair McBrayer committed to the development and distribution of such.

Adjournment

The October 15, 2014 SACJJDP meeting was adjourned at 1:27 p.m.

BSCC Staff Attendance Roster

Kathleen Howard, Executive Director
William Crout, Deputy Director, Corrections Planning and Programs (CPP)
Allison Ganter, Deputy Director, FSO
Kimberly Bushard, Field Representative, CPP
Shalinee Hunter, Field Representative, CPP
Colleen Stoner, Field Representative, CPP
Helene Zentner, Field Representative, CPP
Nathan Cusick, Division Secretary, FSO
Juanita Flores, Division Secretary, CPP