



LOUISIANA DISTRICT ATTORNEYS ASSOCIATION

EXECUTIVE DIRECTOR
E. PETE ADAMS

LDAA "POSITION PAPER" ON JUVENILE JUSTICE REFORM NOVEMBER 2007

The Louisiana District Attorneys Association (hereinafter referred to as the LDAA) has been a willing partner in the juvenile justice reform process. Many of us visited the State of Missouri, toured their facilities and received briefings on "the Missouri model." It was represented that the reform of the juvenile justice system in Louisiana would be modeled after the system exhibited to us in Missouri. We were impressed with the Missouri program and with their facilities, and became advocates of reform. See LDAA "position papers" dated January 22, 2003, and March 20, 2003, marked Exhibit "A" and Exhibit "B," respectively.

We were advised by Mark Steward, the architect of the Missouri model, that their biggest mistake made by our counterparts in Missouri was to reduce the number of youth in secure care, without first implementing the entire reform program. The Missouri plan is a multi-tiered approach, a system of graduated sanctions, with: (1) diversion and community-based programs; (2) intensive supervised probation; (3) intensive day programs for those youth who do not require out-of-home placement or secure care, but who require a structured program coupled with intensive monitoring; (4) small-scale regional residential facilities for those who require out-of-home placement, but for whom secure care is inappropriate; and (5) secure care. We were warned not to repeat Missouri's mistake.

Unfortunately, we ignored the warnings of our Missouri counterparts, and we have reduced the numbers of youth in secure care from a high of over 2,000 to between 400 and 500. This has happened without the implementation of a system of graduated sanctions such as we were shown in Missouri. We clearly "got the cart before the horse" in reducing the numbers of youth in secure care without establishing suitable alternatives to secure care incarceration. We suggest that the lack of intermediate sanctions, as placement alternatives for youth who cannot be adequately served by community-based programs and supervised probation, represents a threat to public safety and is a disservice to victims and our communities.

The Office of Youth Development statistics reflect an increase in non-secure residential beds of 146 since 2003. The entire increase in capacity is with private, non-profit providers. The Missouri plan, on the other hand, relies heavily on its system of state-owned and staffed regional residential facilities and intensive day programs. There have been no such facilities opened in the State of Louisiana since the reduction in numbers of youth in secure care. See excerpts from the website of Missouri Department of Social Services, Division of Youth Services, attached hereto, marked "in globo," as Exhibit "C."

The increase of approximately 150 non-secure residential beds since 2003 stands in stark contrast to the reduction of youth in secure care by approximately 1,600 during the same time frame. Most of the youth who require out-of-home placement are violent offenders, sex offenders, chronic offenders, and youth who repeatedly violate probation. If we retain such youth in our communities due to insufficient bed capacity, we ignore the impact on victims, the well-being of our communities, and the fact that many will be returned to dysfunctional families

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and/or problem neighborhoods which were causative factors in their delinquency, in the first place. The implementation of juvenile justice reform by the Office of Youth Development has made it clear, thus far, that the additional beds in regional facilities, both secure and non-secure, has not been a priority despite protestations to the contrary.

The Office of Youth Development plans to open "a small secure care facility in New Iberia in the fall of 2008 to serve 40 youth," and the strategic plan "calls for an additional small facility in the western part of the state (which has no secure care facilities) in the fiscal year 2009-2010." In the meantime, we would suggest that many, if not most, of the youth who would have been in secure care in 2003, and who are not being served by intensive day programs, are being largely unsupervised and represent a clear-cut threat to public safety.

The Office of Youth Development suggests that "In 2005, the agency solicited for high-end Evidence-Based Practices in residential and non-residential service delivery. Response to the initial Request for Proposals was very limited. Contractors did not have start-up costs, training or workforce to support these types of services." It goes without saying that some services are more appropriately provided by the public sector, first and foremost among such services are the provision of a military for national defense, and fire and public safety protection. The inability of the Office of Youth Development to "ramp up" its regional residential capacity makes a compelling argument for the Missouri system of small-scale regional residential facilities which are state-owned and staffed, or alternatively, owned and staffed by local government entities and funded by the State.

We further suggest that the Office of Youth Development construct, if feasible, small-scale, multi-use facilities, combining populations of youth in detention; those requiring out-of-home placement, but not secure care; and those who require intensive day programs and who are within commuting distance. Such facilities are especially needed in rural areas. Many rural areas do not have sufficient juvenile offenders to justify a "stand alone" detention facility, residential facility, or day program. Although the State has not traditionally funded detention, LSA-R.S. 36:408(H)(3) provides that "The office (OYD) shall participate in programs for the purchase of care and treatment of children taken into custody under the provisions of the Children's Code pending adjudication, disposition, placement, or any or all of the above."

The Office of Youth Development has, to its credit, increased day treatment slots by 288 since 2003. It has also, to its credit, increased significantly the funding for community-based programs such as mental health counseling, substance abuse counseling / treatment, after-school summer programs, etc. Additionally, each regional director has "flex funds" at their disposal, which are discretionary funds that can be expended for the benefit of youth, both pre- and post-adjudication. Clearly, there are some youth who would have been confined in secure care in 2003, who can be better served at home with the increased availability of community-based programs.

LDAA supports community-based programs. Some of the best are run by District Attorneys around the state. Indeed, the District Attorney performs a unique role in acting as "gate-keeper" for the juvenile justice system, filing petitions and seeking adjudication in those cases which require it, and diverting into community-based programs those youth who are better served by less formal, individualized treatment. District Attorneys and their Assistants exercise this discretion daily, balancing the needs of juvenile offenders with the rights of victims and the concerns of our larger communities.

Many District Attorneys have effective prevention programs, emphasizing treatment, acceptance of responsibility and restorative justice. These programs may be characterized, variously, as District Attorney's probation, District Attorney diversion, or FINS, but they share similar purposes: (1) to avoid stigmatizing youth for having committed minor offenses that may best be handled outside the formal juvenile justice system; (2) to avoid increasing some risk factors for delinquent behavior, such as "delinquent peer associations", and (3) to ease the burden on juvenile courts and the Office of Youth Development so that they can focus on more serious offenders.

Throughout the juvenile justice reform process, we pointed out the insufficiency of existing mental health resources, as well as the woeful inadequacy of substance abuse counseling and treatment for both juvenile and adult offenders. These inadequacies persist today. It is especially frustrating for those of us who have Mental Health and Alcohol and Drug Abuse Clinics in our communities which are under-funded and under-staffed, and which are unable to render meaningful services to youth whose needs we attempt to address through child protection, FINS, diversion or the formal juvenile justice system.

If juvenile justice reform is to succeed, we must not only implement a system of intermediate sanctions to fill the gap between probation and secure care, we must also provide the District Attorneys with priority access to funding for community-based services such as counseling, tutoring and mentoring programs, mental health and substance abuse treatment, and educational services for those youth whose needs may be addressed outside the formal juvenile justice system.

Community-based programs provide vital services to youth in various diversion programs, to youth on probation and to youth re-entering our communities from secure care or other residential facilities. These programs cannot be viewed as a substitute, however, for intermediate sanctions which offer more intensive services for youth, and a higher degree of protection for victims in our communities. We suggest that, until such time as the Office of Youth Development has "filled the gaps" in its system of graduated sanctions, that it make available such additional secure beds as are necessary to afford adequate placement options, until a network of regional residential facilities and intensive day programs is in place.

It was never represented to us that the reductions of youth in secure care was an end in itself; however, it is readily apparent that many of those who propelled the process have "declared victory" and returned home to their daily lives. District Attorneys and their Assistants, who do not have that luxury, are still waiting for the promise of reform to be fulfilled.

Attachments:

- Exhibit "A"
- Exhibit "B"
- Exhibit "C"