

Advisory Board Recommendations Areas of Disagreement (AD)

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Advisory Board Recommendations

Areas of Disagreement

Note 1. Objection to the Establishment of Louisiana Juvenile Justice Planning and Coordination Board.

Advisory Board Final Recommendations:

3.01 (Interim) Louisiana Juvenile Justice Planning and Coordination Board. We recommend that a Louisiana Juvenile Justice Planning and Coordination Board be established under the Children's Cabinet to perform perhaps the following functions to:

- Develop a strategic planning process for juvenile justice that utilizes data collection and trend analysis, addresses resources and gaps in services, identifies research-based effective programs and practices, and incorporates impact evaluation methodology to measure outcomes; and to develop an annual implementation plan;
- Monitor and report to the Governor, the Children's Cabinet, the Joint Legislative Juvenile Justice Policy Priority Committee (see Recommendation 3.03), other appropriate legislative committees, and the general public on Louisiana's progress in implementing the strategic plan and the annual implementation plan;
- Ensure and supervise the preparation of a juvenile justice component of the Children's Budget; and to assist the Cabinet in presenting the Budget to the appropriate legislative budget committees and to the Joint Legislative Juvenile Justice Policy Priority Committee (Recommendation 3.03);
- Create, with the advice and counsel of the Children's Cabinet Research Council (see Recommendation 2.01), a system of accounts (statistics, indicators, and measures) and a system for contracting, monitoring and evaluating the performance and outcomes of the juvenile justice system throughout state;

- Ensure the planning, development, and maintenance of a central repository of bibliographic, statistical, and directory information on juvenile justice in association with an appropriate state database and web-based function;
- Ensure that the actions of the LCLE/OJJDP Board are consistent with the policies of the Children's Cabinet and the Louisiana Juvenile Justice Planning and Coordination Board;
- Ensure that the design of Louisiana's continuum of services for children includes juvenile justice services;
- Assist the Regional Juvenile Justice Planning and Coordination Advisory Boards (see Recommendation 3.02) in the building of community, local, and regional planning and collaborative capacity, especially with respect to the comprehensive strategy, the principles of balanced and restorative justice, and a continuum of community-based, graduated sanctions and services;
- Establish, with the Children's Cabinet Research Council (Recommendation 2.01), a system for monitoring and evaluating all juvenile justice programs and services;
- Coordinate the development and acceptance of common assessment instruments (including risk, safety, service needs, family, and strengths-based instruments that are practice-oriented and not just theoretical in design) by all child welfare, juvenile justice, mental health, and substance abuse agencies;
- Assist the Children's Cabinet in the development of a centralized intake system that would allow all providers to access common intake forms and to assist their clients in completing and returning them via a web site to a central intake database and to a system of case managers;
- Review and comment on the recommendations for the continuum of community-based services and sanctions, the proposed legislation, actions and rules of the Regional Juvenile Justice Planning and Coordination Advisory Board before submitting these recommendations to the Children's Code Committee of the Louisiana Law Institute, the Joint Legislative Juvenile Justice Policy Priority Committee, relevant budget committees, the governor, the Supreme Court, or other appropriate policy-making or policy review entity.

Advisory Board Action Plan, Legislation # 2, Enhancements to Children's Cabinet

| 2. Enhancements to Children's Cabinet | Special Bill | | |
|---|---------------------|---|------------|
| (a) Development of New System of Financing | | AB 3.04; 3.06 | 8/03-12/03 |
| (b) Children's Budget Enhancements | | AB 3.05; 3.07; 3.08; 3.09 4.01; 4.10 | 8/03-12/03 |
| (c) Creation of Children's Cabinet Research Council | | AB 2.01; 202; 3.01 | 8/03-12/03 |
| (d) Creation of Louisiana Juvenile Justice Planning and Coordination Board | Sunsets 12/31/04 | AB 3.01 | 8/03-12/03 |
| (e) Creation of Regional Boards | Sunsets 12/31/04 | AB 3.02 | 8/03-12/03 |
| (f) References to Joint Legislative Juvenile Justice Policy Priority Committee | | AB 3.03 | 8/03 |
| (g) Study of the Merger of FINS and TASC | | AB 4.09 | 8/03-1/04 |

Dissent: District Attorneys of Louisiana

"The District Attorneys of Louisiana oppose the creation of the Office of Children, Youth and Families; the creation of the Louisiana Juvenile Justice Planning and Coordination Board; the creation of the Regional Juvenile Justice Planning and Coordination Advisory Boards; and the "study" of regional juvenile courts." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"The Louisiana District Attorneys also oppose the establishment of the Louisiana Juvenile Justice Planning and Coordination Board, Regional Juvenile Justice Planning and Coordination Boards, and a "study" of regional juvenile courts. Sections 3.01, 3.02 and 5.09, respectively," LDAA Position #2, p. 4, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"The JJC Advisory Board was presented with no information to justify the creation of these new boards, or to justify a "study" of regional juvenile courts. Further, the Advisory Board was furnished with no information to suggest that the new boards will not duplicate the functions of existing entities, such as the Children's Cabinet and its Advisory Board." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"The JJC Advisory Board has completed its mission by adopting recommendations to be considered by the Juvenile Justice Commission. Its recommendations should be submitted to the Juvenile Justice Advisory Board, and others, for further review. There is no need for new bureaucracies to further complicate the process of devising and implementing an improved juvenile justice system." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"It may be that the Advisory Board of the Children's Cabinet should be expanded to include groups such as the Louisiana District Attorney's Association, or that the scope of its mission should be re-evaluated. And, if so, it is timely to consider such changes since the Children's Cabinet Advisory Board, is, we understand currently up for reauthorization. We suggest that the "fine-tuning" of entities which currently exist is far preferable to the establishment of new bureaucracies."

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Response

History. The recommendation for the establishment of a Louisiana Juvenile Justice Planning and Coordination Board was first presented to the Advisory Board on September 6, 2002 as part of the Planning Team's Preliminary Draft of Concepts, a document requested by the Advisory Board at its meeting of July 11, 2002. Recommendation 3.01 was available for discussion through working group meetings in the afternoon of September 6 and was specifically discussed by the Advisory Board at the end of its meeting on that same day. The representatives of the Louisiana District Attorneys Association stated their opposition at that time to the concept of the Louisiana Board. Part of their opposition led to the proposal of an alternative eliminating the statement regarding LCLE in bullet six of the original recommendation. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing other alternatives.

In accordance with the procedures established by the Advisory Board, the Planning Team mailed a copy of a ballot containing the original concept and the alternative to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes and that each member should only vote on only one of the alternatives.

In the balloting, sixteen members voted for the original concept, eleven voted against, one did not mark the ballot, one ballot marked the ballot conditional, and fourteen did not return their ballots. Six members voted for the alternative concept, twenty opposed the alternative, two did not mark their ballots, one marked the ballot conditional, and fourteen did not return their ballots.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Despite the fact that the blanks and the ballots not returned were sufficient to adopt the original concept as provided in the Board's approved procedures, the chair asked that the two concepts be voted on by a vote of hands. On the basis of the vote of hands, the original concept was approved by a majority of the quorum of members present and voting.

Rationale. The rationale for the recommendation rests on three considerations which were stated at the meeting of September 6 and subsequently.

1. **The Need for Additional Implementation Resources.** At the meeting of September 6th and at subsequent meetings, the argument was made that the new interim structure was needed to continue the timely planning and implementation of many of the Advisory Board's recommendations. Many participants in the public hearings urged the Board to develop ways to move quickly into implementation so that the public would continue to have faith in the process and prospect of reform. In addition, members of the Planning Team pointed out that the Advisory Board and the Commission would both cease to exist after March 2003 and that the administration would go out of office in January 2004. Given this framework, the Planning Team and the Board concluded that some entity, having staff and a representative board, was necessary to continue the momentum created by the Commission and Advisory Board and to implement the Advisory Board's short-term (one-year or less) recommendations.

The proposed Department of Children, Youth, and Families would have been ideal for the task, if it were already in existence. But, the Department doesn't yet exist and cannot be made fully functional until sometime in either the third or fourth quarter of 2004. The Children's Cabinet was another possibility. But the Cabinet was already made responsible, under the Board's plan, for the implementation in the short-term of more than eleven of the Board's fifty-nine recommendations. These include:

- establishing the Children's Cabinet Research Council;
- developing a plan for a centralized intake system;
- developing a plan for a comprehensive case management system;
- developing a plan for single pool of financing;
- facilitating the standardization of service regions;

- developing ways to leverage local and private matching funds;
- developing ways to maximize federal funds;
- improving the state's bidding and reimbursement system relating to social services;
- restructuring the Children's Budget to reflect the inclusion of juvenile justice agencies and the use of benchmarks and other planning tools;
- conceptualizing a comprehensive continuum of services, including juvenile justice services; and
- studying ways to meet the financing needs of foster care.

Because of the heavy workload already proposed for the Cabinet and the fact that the Cabinet's mission is limited to policy development and not programmatic implementation, the Board eventually decided that a new, interim structure was needed. A new structure, with a small staff and considerable voluntary expertise, could jump-start the implementation of the following programmatic recommendations of the Commission, while the Cabinet worked on the implementation of more policy-oriented recommendations.

- establishing a strategic planning process for juvenile justice;
- creating a comprehensive data repository;
- creating a system of accounts and a system of evaluation (with the Children's Cabinet Research Council);
- developing common assessment systems;
- assisting the Children's Cabinet in revising the Children's Budget;
- assisting the Children's Cabinet in conceptualizing the continuum of services with respect to juvenile justice services;
- assisting the Children's Cabinet in establishing the centralized intake system;
- implementing training and other capacity-building programs; and
- developing a system of financing community-based programs.

The Louisiana Juvenile Justice Planning and Coordination Board was intended to meet the need for additional resources to implement short-term and low-cost recommendations.

2. **Accountability.** The reform efforts of other states have often included the creation of interim and permanent mechanisms to ensure legitimacy and accountability in the process of reform. For example, the State of Florida created an "Accountability Board" to collect data and to provide guidance on juvenile justice reform after approval of a plan for reform. Upon establishment and further development of the Florida Department of Juvenile Justice, the "Accountability Board" was terminated. In Washington, D.C., the juvenile justice reform effort begun by a study commission was recommended to be continued by an Executive-level Youth Services Coordinating Commission "to coordinate, monitor, and ensure accountability for a youth services and juvenile justice policy vision."

The Louisiana Juvenile Justice Planning and Coordination Board was intended by the Advisory Board to be a symbol, a prod, and a watch-dog of accountability, ensuring that the promise of juvenile justice reform, especially during a period of gubernatorial and legislative transition, would in fact be carried out.

3. **Involvement of Stakeholders.** The establishment of the Louisiana Juvenile Justice Planning and Coordination Board was also intended to serve as a vehicle for juvenile justice stakeholders to provide needed advice and counsel with respect to the implementation of the recommendations. Without such involvement, the process of implementation would lack the "buy-in," the practical experience, and the multiple informed perspectives needed to ensure:

- better understanding of the recommendations;
- sound planning of the recommendations; and
- timely implementation of the recommendations.

The interim Louisiana Juvenile Justice Planning and Coordination Board was intended by the Advisory Board to be a vehicle for guiding the further planning and implementation of the recommendations listed under its responsibility. It was also intended to be a vehicle for infusing and melding juvenile justice perspectives into the fabric, planning horizon, and culture of the Children's Cabinet and its Advisory Board.

Given the interim status of the Board, its mission, its limited staff requirements, and the timetable for the implementation of the strategies assigned to it, we find it difficult to understand how the word "bureaucracy" would apply to it. A term bureaucracy is generally understood to be an entity that is a "permanent" part of government (a bureau), that is somewhat large and costly, and that has an ongoing mission. The proposed Board has none of these characteristics.

Suggestions

In their dissent, the district attorneys argue that "there is no need for new bureaucracies to further complicate the process of devising and implementing an improved juvenile justice system." They also suggest that expansion of the Advisory Board of the Children's Cabinet to include groups such as the Louisiana District Attorney's Association might be an alternative, or that the scope of the Cabinet be re-evaluated, presumably, to allow for more attention to juvenile justice.

Comment on Suggestions

These suggestions are good as long-term concepts, but not in the short-term. The issue to be resolved is:

- whether the state should move aggressively and rapidly to implement the Board's short-term, low-cost recommendations as it thoughtfully plans, develops and implements longer-term recommendations relating to restructuring? or
- whether it should move more cautiously, spending its attention on restructuring before beginning implementation?

The Advisory Board's Action Plan clearly advocates the first approach. Under the Action Plan, several recommendations are targeted for immediate initiation and implementation within the period from March to December 2003.

It is difficult to see how "adding" a few juvenile justice agencies to the existing Advisory Board of the Children's Cabinet will:

- help to jump-start the implementation;
- provide the needed symbol, prod, and "watch-dog" tool of accountability; and
- provide the specific advice needed to ensure the proper development of the recommendations assigned by the Advisory Board to the Louisiana Juvenile Justice Planning and Coordination Board, while, at the same time, infusing juvenile justice perspectives into the Cabinet.

The concept of changing the Children's Cabinet's mission at this time is even worse. The Cabinet will already be going through the problem of transitioning from one administration to another. In the short-term, its staff should be spending its time on implementing the Commission's recommendations not on restructuring the Cabinet. The restructuring of the Cabinet can and should come later, specifically after the state, through the Cabinet and the Louisiana Juvenile Justice Planning and Coordination Board, has clearly demonstrated to the people of Louisiana

- that their hopes and expectations will not be disappointed,
- that reform will start immediately and not at some undetermined point in the future,
- that change is occurring, and
- that further change will occur.

Note 2. Objection to Establishment of the Regional Juvenile Justice Planning and Coordination Advisory Boards.

Advisory Board Final Recommendations:

3.02 (Interim) Regional Juvenile Justice Planning and Coordination Advisory Regions and Boards. We recommend the establishment by legislation of nine or ten juvenile justice planning and coordination regions, each having a Regional Juvenile Justice Planning and Coordination Advisory Board. Each board would be co-chaired by two judges appointed by the Supreme Court and would consist of the following members appointed by the legislature: two law enforcement leaders from the region; two district attorneys from the region, two OCS representatives from the region, two OMH representatives from the region; two indigent defenders assigned to juvenile cases in the region; two persons from state or local youth probation and corrections from the region; two child/adolescent mental health providers or substance abuse treatment providers from the region, two representatives from local school districts in the region; two parents or family advocate representatives from the region; and three representatives of the general public not associated with any public agency or service provider. Each board would be staffed by a court administrator or by some other voluntary staff. The members of the Board would receive no per diems for service or expenses. The purposes of the Regional Juvenile Justice Planning and Coordination Advisory Boards include:

- Develop a comprehensive strategy for the region based on the principles of balanced and restorative justice and a common set of operating policies or protocols;
- Develop a consensus among stakeholders in the juvenile justice system regarding the vision statement, the strategic plan, the regional comprehensive strategy, the common set of operating policies or protocols, service integration and other forms of collaboration;
- Develop capacity in the region for planning and coordinating juvenile justice at the community, local, and regional level, especially with respect to the comprehensive strategy, balanced and restorative justice, the common set of operating policies or protocols, service coordination and integration, and other forms of collaboration;
- Promote and facilitate the assessment of needs in the region, especially in terms of identifying and prioritizing gaps in the continuum of needed services for the region;
- Submit each year to the Louisiana Juvenile Justice Planning and Coordination Board its recommendations for needed community-based treatment services and sanctions, as well as its recommendations for other legislation, executive actions, or judicial rules relating to juvenile justice.

- Sponsor at least once a year a regional conference and set of workshops designed to build the region's capacity to better plan, communicate, coordinate, collaborate, and implement effective programs, practices, and policies;
- Assist the Louisiana Juvenile Justice Planning and Coordination Board 's efforts to ensure that all new and existing programs are properly monitored and evaluated.

Advisory Board Action Plan, Legislation # 2, Special Bill

| | | | |
|--|---------------------|--|------------|
| Enhancements to Children's Cabinet | | | |
| 2. Enhancements to Children's Cabinet | | | |
| (a) Development of New System of Financing | | AB 3.04; 3.06 | 8/03-12/03 |
| (b) Children's Budget Enhancements | | AB 3.05; 3.07; 3.08; 3.09 4.01; 4.10 | 8/03-12/03 |
| (c) Creation of Children's Cabinet Research Council | | AB 2.01; 202; 3.01 | 8/03-12/03 |
| (d) Creation of Louisiana Juvenile Justice Planning and Coordination Board | Sunsets 12/31/04 | AB 3.01 | 8/03-12/03 |
| (e) Creation of Regional Boards | Sunsets 12/31/04 | AB 3.02 | 8/03-12/03 |
| (f) References to Joint Legislative Juvenile Justice Policy Priority Committee | | AB 3.03 | 8/03 |
| (g) Study of the Merger of FINS and TASC | | AB 4.09 | 8/03-1/04 |

Dissent: District Attorneys of Louisiana

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"The JJC Advisory Board was presented with no information to justify the creation of these new boards, or to justify a "study" of regional juvenile courts. Further, the Advisory Board was furnished with no information to suggest that the new boards will not duplicate the functions of existing entities, such as the Children's Cabinet and its Advisory Board." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"The JJC Advisory Board has completed its mission by adopting recommendations to be considered by the Juvenile Justice Commission. Its recommendations should be submitted to the Juvenile Justice Advisory Board, and others, for further review. There is no need for new bureaucracies to further complicate the process of devising and implementing an improved juvenile justice system." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"It may be that the Advisory Board of the Children's Cabinet should be expanded to include groups such as the Louisiana District Attorney's Association, or that the scope of its mission should be re-evaluated. And, if so, it is timely to consider such changes since the Children's Cabinet Advisory Board, is, we understand currently up for reauthorization. We suggest that the "fine-tuning" of entities which currently exist is far preferable to the establishment of new bureaucracies."

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Dissent: Richard Stalder, Secretary Department of Public Safety and Corrections

"Recommendation 3.02. Regional Juvenile Justice Planning and Coordination Advisory Regions and Boards."

"The state has an existing structure in place for multi-parish planning and the Louisiana Commission on Law Enforcement with its "J" Board for juvenile justice issues, grants,

and planning. Consideration should be given for building upon this existing structure by adding additional functions that the Juvenile Justice Commission deems necessary." Richard Stalder, Comments Regarding Juvenile Justice Advisory Board Recommendations, December 2002

Response

History. The recommendation to create the Regional Juvenile Justice Planning and Coordination Boards was first presented to the Advisory Board on September 6, 2002 as part of the Planning Team's Preliminary Draft of Concepts, a document requested by the Advisory Board at its meeting of July 11, 2002. Recommendation 3.01 was available for discussion through working group meetings in the afternoon of September 6 and was specifically discussed by the Advisory Board at the end of its meeting on that same day. The representatives of the Louisiana District Attorneys Association stated their opposition to the concept of the regional boards at that time. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing alternatives.

In accordance with the procedures established by the Advisory Board, the Planning Team mailed a copy of a ballot containing the original concepts and any alternatives to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes.

In the balloting, nineteen members voted for the concept, five voted against, four did not mark their ballots, one marked the ballot conditional, and fourteen did not return their ballots.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Despite the fact that the blanks and the ballots not returned were sufficient to adopt the original concept as provided for in the rules, the chair asked that the concept be voted on by a vote of hands. On the basis of the hand vote at the meeting, the concept was approved by a majority of the quorum of members present and voting.

Rationale. The rationale for the recommendation is based on the following considerations:

1. **Juvenile Justice is Everybody's Business.** In its findings, the Advisory Board declared that juvenile justice is everybody's business. This statement is intended to indicate that, for true reform and restructuring to be successful, everyone (i.e. all residents and institutions of the state) has to understand the goals, the strategies, and their

role in the process. Everyone should also have the ability to participate -- to contribute additional ideas, to keep abreast of what's going on, and to learn how to assist the process of reform.

The regional advisory boards were recommended as interim forums for such discussion and learning during the early stages of the reform effort.

2. The Need for Extensive Training. The recommendations of the Advisory Board require all stakeholders in local entities and regions to understand and to do many new things, including:

- how to develop comprehensive strategies,
- how to use the principles of balanced and restorative justice,
- how to access and use treatment programs and graduated sanctions,
- how to identify and use exemplary community-based programs, and
- how to participate generally in the implementation of the Commission's other recommendations.

The Board believes that such training and capacity building should be done as quickly as possible so that when money is freed up through restructuring corrections, or through realigning state and local functions, or through restructuring the system of financing, the system is ready to implement efficiently and effectively.

The interim regional advisory boards were recommended as vehicles for providing such initial training and capacity building.

3. The Need to Identify Local and Regional Gaps in Services. During this early period as the system waits for funding from any of the sources identified above, a significant need still exists to identify local and regional gaps in services, to examine exemplary programs, and to work out priorities.

The interim regional advisory boards were recommended to identify such gaps and to start the process of transitioning to community-based services.

Suggestions

Secretary Stalder suggests that the juvenile delinquency and gang prevention boards be considered to perform these functions.

Comment on Suggestions

For a variety of reasons, the juvenile delinquency and gang prevention advisory boards would not, in the short-term, be suitable agents for performing these functions. Among these considerations are:

- These boards are for the most part involved in the allocation of OJJDP funds. They are not set up to be public forums, to provide training, and to identify gaps in all services relating to juvenile justice as defined by the Commission. Furthermore, they are oriented exclusively to the issue of juvenile delinquency and not to child abuse, juvenile mental health, and other issues defined by the Commission to be included in juvenile justice.
- These boards are financed with funding from the Department of Justice, a federal agency that may or may not accept the broader concept of juvenile justice as espoused by the Commission. The funding, therefore, may limit the involvement of these boards in these other types of issues.
- These boards represent service delivery districts that are not currently in geographical alignment with the districts of other agencies, such as OCS, OYD, OMH, and OPH. The Advisory Board has recommended that these districts be brought into geographical alignment as a result of legislation to be introduced and enacted this legislative session.
- If the Department of Children, Youth, and Families is created, the Department should create its own unified system of service delivery districts and such regional structures as it may need to assist in more effective delivery of services.

The regional boards are intended to fulfill a short-term mission and then to sunset under their enabling legislation. The OJJDP boards may be vehicles for replacing the regional boards, but there are too many unanswered questions at present to recommend their immediate use.

The appointment of "ad hoc" boards by the current Cabinet would not be desirable. It would distract the Cabinet from its ongoing work and the implementation tasks assigned to it by the Commission. It would also take more time to organize ad hoc boards than boards whose membership is specified in legislation. In addition, the designation of membership by legislation is the only way to guarantee the representativeness of such boards.

Note 3. Objection to the Creation of the Office of Children, Youth, and Families

Advisory Board Final Recommendations:

3.15 Creation of a Single "Office of Children, Youth and Families". We recommend that the state consolidate its executive functions concerning children and youth in its custody -- functions currently shared by the Department of Social Services, the Department of Health and Hospitals, and the Office of Youth Development -- into one single agency serving children, youth, and families that would provide a complete continuum of services in order to allow for children to have access to services most appropriate to their needs and abilities. The new Office will oversee the development of a comprehensive, integrated system of care for all children and youth in care throughout the state. It will also ensure that youth are placed in the most appropriate, least restrictive setting that would allow them access to the resources necessary for them to address their problems. We recommend that a special committee of the legislature be appointed to develop a plan no later than January 1, 2004 for review and adoption by the new governor and legislature.

Advisory Board Action Plan, Legislation # 2, Special Bill

| | | | |
|---|--------------|---------|---------|
| 1. Creation of Department of Children, Youth, and Families | Special Bill | AB 3.15 | 1/14/03 |
| | | | |
| (a) Development of Plan for Department by 12/03 | | | |
| With Self-Executing Effective Date in Early 2004 | | | |

Dissent: District Attorneys of Louisiana

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"The JJC Advisory Board was presented with no information to justify the creation of these new boards, or to justify a "study" of regional juvenile courts. Further, the Advisory Board was furnished with no information to suggest that the new boards will not duplicate the functions of existing entities, such as the Children's Cabinet and its Advisory Board." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

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"It may be that the Advisory Board of the Children's Cabinet should be expanded to include groups such as the Louisiana District Attorney's Association, or that the scope of its mission should be re-evaluated. And, if so, it is timely to consider such changes since the Children's Cabinet Advisory Board, is, we understand currently up for reauthorization. We suggest that the "fine-tuning" of entities which currently exist is far preferable to the establishment of new bureaucracies."

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Dissent: Richard Stalder, Secretary, Department of Public Safety and Corrections

"Recommendation 3.15 (Creation of a Single "Office of Children, Youth, and Families")

"The concept of a single agency to address children in custody of the state by combining parts of the Department of Public Safety and Corrections, the Department of Health and Hospitals, and the Department of Social Services may have merit. Such a significant change in executive function, however, could have numerous ramifications which have not yet been recognized or discussed. It is suggested that serious consideration of this concept be studied by the legislature and the executive branch in order to fully understand the impact of adoption of recommendation prior to implementation."

Response

History. The concept of a single department was first recommended by several citizens in the first round of public hearings of the Commission. One presenter even submitted at one of the hearings a draft of legislation for accomplishing its creation. The concept was further supported by the abundant testimony received at the hearings on the problems of coordination, collaboration and communication among agencies in the "system." In addition, the concept was recommended by at least four Advisory Board members during the brainstorming sessions leading to the development of the Board's findings and recommendations. The concept was also proposed in a letter submitted to the Advisory Board by Judge Jude Fanguy. The concept was accordingly placed on the ballots to be considered by all members and was entitled "Office of Children, Youth, and Families."

In accordance with the procedures established by the Advisory Board at its meeting of September 6th, the Planning Team mailed a copy of a ballot containing the concept to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes.

In the balloting, twenty members voted for the concept, seven voted against, two ballots were not marked, and fourteen ballots were not returned.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Despite the fact that the blanks and the ballots not returned were sufficient to adopt the original concept as provided for in the rules, the chair asked at the meeting that the members decide the matter by a show of hands. During the discussion on the issue, the members made clear that what was proposed was really a "department" of state government and not an "office" under a department. On the basis of that clarification, a majority of the quorum present and voting approved the recommendation by a hand vote.

Rationale. The rationale for the creation of the new department rests on four considerations.

1. **Improving Coordination, Communication, and Collaboration.** The consolidated department will create the best available opportunity for increasing coordination, communication, and collaboration among agencies. At one of the public hearings, a manager in mental health said that currently "departments have to fight to coordinate." The new department would end these territorial disputes by making the agencies under its supervision communicate, coordinate, and collaborate in effective ways.

2. **Facilitating the Development of the New System of Financing.** The consolidation would greatly facilitate the efforts of the Children's Cabinet to restructure the system of financing by creating

- a single point of entry for all services,
- a comprehensive case management system capable of providing wraparound services to children and families, and
- a single pool of financing for most services.

3. **Savings through Restructuring.** The consolidated department would provide opportunities for reducing duplication in state services not only at the administrative but also the programmatic level. The new department would enable the state to better unify and coordinate many of its management information systems, human resource functions, fiscal functions, and other management functions. There would also be numerous opportunities for eliminating the programmatic duplication in the current offices and departments. Furthermore, these efficiencies, when coupled with other aspects of restructuring, particularly the move to community-based services, would result in considerable savings that could then be reinvested in services for people rather than management services for the various offices and departments.

4. **A Better Culture and Environment for Youth Corrections.** The new department would enable the state to create a better culture for juvenile corrections. The current culture, as exemplified by the large number of children who are behind bars and whose families frequently complain of abuse and improper treatment, is not a suitable arrangement. If we wish to move in a different direction, we need to have new leadership, infused with a new sense of urgency and mission, who will aggressively create a better culture and a better correctional system.

Comment

The argument advanced by Secretary Stalder regarding the need to study the impact of the recommendation before implementing the new department can be addressed within the framework of the Advisory Board's recommendation to have a legislative committee "plan" the creation of the new department. According to the testimony received at eighteen public hearings and through the Advisory Board process, there is general agreement that the current organizational arrangements are not working and that the current organizational arrangements are seriously impaired. There is also general agreement that substantial reform and restructuring, not cosmetic tinkering, are necessary to build a real system.

The rationale for creating the new department is presented above. The rationale for not creating the new department should be provided by those who are against the proposal. In addition, the rationale for excluding certain offices from the reorganization should also be presented in detail. The legislative committee could, within the six-months envisioned by the Board, hold hearings to receive testimony from persons on whether the department is a good idea or not and whether a particular office should or should not be consolidated within it. Any other type of lengthier study (e.g., investigating how other states are

structured; or analyzing studies of restructuring) would simply be an excuse for further delay. Such studies involve too many variables to consider or lead to no firm conclusions one way or the other. The questions here are rather simple and can be framed in such a way as to elicit specific responses rather than vague assertions from affected departments, agencies, and personnel. For example, the first question might be:

- If "X" agency was consolidated and restructured under the new department, why wouldn't the state be better able to achieve greater inter-agency coordination, communication, and collaboration? What problems would the state encounter in this regard?
- If "X" agency was consolidated and restructured under the new department, why wouldn't the state be better organized to create single points of entry for services, a comprehensive system of case management, and the ability to perform wraparound services? What problems would the state encounter in this regard?
- If "X" agency was consolidated and restructured under the new department, why wouldn't the state be better able to achieve savings from the elimination of duplicative or unnecessary supervisory costs, management information costs, compliance costs, training costs, and programmatic costs? What problems would the state encounter in this regard?
- If the Office of Youth Development was consolidated and restructured under the new department, why wouldn't the state be better able to redesign, acculturate, and restructure youth correctional services along the lines of the Missouri model in a more timely manner than Secretary Stalder is proposing?

Note 4. Objection to the Change in Mandatory Sentencing Law (897.1)

Advisory Board Final Recommendations:

5.02 LChC Article 897.1. We recommend that the Children's Code Committee of the Louisiana Law Institute either repeal the provisions of LChC 897.1 in its entirety or amend those provisions to allow for greater judicial discretion.

Advisory Board Action Plan, Special Legislation, 11

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| Legislation for Review by Children's Code Committee | | | |
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| 11. LChC Article 897.1 - Mandatory Sentencing | Special Bill | AB 5.03 | 8/03-ongoing |
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Dissent: District Attorneys of Louisiana

The representatives of the district attorneys speaking at the Commission hearing on January 22, 2003 opposed the recommendation.

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Dissent: Richard Stalder

"Article 897.1 was adopted at a time when many states were widening the net of adult prosecution for youth under the age of general criminal responsibility. This law was enacted as a public safety measure as well as alternative (sic) to transfer of these juveniles for adult prosecution for the very serious offenses enumerated in this Article."

"Since August 15, 1993, a total of 321 juveniles of the 11,206 sent to secure care institutions have been committed under the sentencing provision of this Article."

"Caution is warranted for repeal of Ch.C. 897.1 without a thoughtful discussion of the possible unintended consequences."

Response

History. The recommendation to amend or repeal the provisions of LChC 897.1 relative to mandatory sentencing was first presented to the Advisory Board on September 6, 2002 as part of the Planning Team's Preliminary Draft of Concepts, a document requested by the Advisory Board at its meeting of July 11, 2002. The recommendation was discussed at the September 6 meeting and led to the introduction of an alternative. The alternative recommendation (Recommendation 5.03A) essentially eliminated the wording regarding "amending" and simply called for the repeal of the entire section. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing further alternatives.

In accordance with the procedures established by the Advisory Board at its meeting of September 6th, the Planning Team mailed a copy of a ballot containing the original concepts and any alternatives to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes.

In the balloting, sixteen members voted in favor of Recommendation 5.03, twelve voted against, one did not mark a ballot, and fourteen did not return their ballots. Fifteen members voted in favor of Recommendation 5.03A, twelve voted against, two did not mark their ballots, and fourteen were not returned.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Because the balloting was inconclusive on the issue, the chair asked that the matter be considered for discussion and for resolution by a vote of hands. On the basis of the vote by hands, the original recommendation (5.03) was eventually approved by a majority of the quorum present and voting.

Rationale. The rationale for the recommendation is based on the following considerations:

- 1. Rehabilitation and Treatment.** R.S. 15:906 specifically declares it to be the public policy of this state that commitment to the care of the department is not punitive nor is anywise to be construed as a penal sentence, but as a step in the total treatment process toward rehabilitation of the juvenile. The Supreme Court, most recently in *State in Interest of D.J.*, has recognized that "[t]he unique nature of the juvenile system is manifested in its non-criminal or "civil," nature, its focus on rehabilitation and individual

treatment rather than retribution, and the state's role as *parens patriae* in managing the welfare of the juvenile in state custody."

However, Ch.C. art. 897.1 categorically denies certain juveniles rehabilitation and individual treatment. In addition, R.S. 15:906 provides an exception to the state's rehabilitative policy for these juveniles, substituting instead a policy that prioritizes protection of society. Punitive determinative sentences may protect society during the period of detention, but rehabilitation and treatment may protect society in the longer term.

The Supreme Court has upheld the importance of "the flexibility of the juvenile judge as the trier of fact, which allows the judge to take into consideration social and psychological factors, family background and education in order to shape the disposition in the best interest of both the child and society." (St. in interest of D.J., at p.10.)

Rehabilitation and treatment of children serve not only the interests of the juvenile but also the long-term protection of society. Judicial discretion to fashion appropriate individual dispositions is specifically prohibited by 897.1 under the guise of public safety.

2. Least Restrictive Placement. One of the fundamental general premises of Louisiana's juvenile law is to place children in the least restrictive placements conducive to their rehabilitation and correction. 897.1 is a major and unnecessary exception to this general rule. According to information received at public hearings, a large number of incarcerated juveniles have severe mental problems or severe problems resulting from excessive substance abuse. Given this, the system appears to be unnecessarily inflexible in terms of allowing some youth having such conditions to be treated in secure mental health or substance abuse treatment facilities.

3. Missouri and Research. The Missouri system of corrections and abundant research clearly demonstrate that punishment alone, even for offenders who have committed very serious crimes, is not always the best alternative. See, for example, Stakeholder Findings and Findings of Fact, "Notes" 1.1W and 1.1T; also, the section on "Works Cited."

4. Unintended Consequences. The unintended consequences of the policy and practice resulting from 897.1 include under-charging or under-adjudicating juveniles as the only option for providing them with needed treatment and rehabilitation services. Recidivism rates of juveniles compared to adult offenders indicate the greater public safety risk inherent in increasing adult prosecution of juveniles (as a consequence of amending or repealing 897.1).

Note 5. Objection to the Prohibition of Waiver of Counsel in Delinquency Cases

Advisory Board Final Recommendations:

5.03 Waiver of Counsel. We recommend that the Children's Code Committee of the Louisiana Law Institute review the provisions of LChC 810 to amend the law to be consistent with the FINS waiver provisions under LChC 740B, thereby prohibiting the waiver of counsel in delinquency proceedings. At the same time, we recommend that the Judicial Council of the Supreme Court establish a task force to develop ways to ensure that all courts having juvenile jurisdiction have counsel available to represent children and youth in child dependency, FINS, and delinquency cases.

Advisory Board Action Plan, Special Legislation, 12

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| Legislation for Review by Children's Code Committee | | | |
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| 11. LChC Article 897.1 - Mandatory Sentencing | Special Bill | AB 5.03 | 8/03-ongoing |
| | | | |
| 12. Waiver of Counsel | Special Bill | AB 5.04 | 8/03-ongoing |

Dissent: District Attorneys of Louisiana

"Curiously, in Section 5.03, the recommendations call for "greater judicial discretion" in juvenile dispositions. Yet in Section 5.04, the recommendations suggest that judges be barred from exercising discretion in accepting waivers of counsel." LDAA Position #3, p. 4, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"We suggest that knowing and intelligent waivers of counsel should be permitted, and that, if some judges are abusing their discretion in permitting juveniles to waive counsel too frequently (as some have suggested), then that problem should be directly addressed. We further suggest that the prohibition of waivers of counsel would ignore the wishes of juveniles and their families, their financial circumstances, as well as the nature of juvenile proceedings." LDAA Position #3, pp. 4-5, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"It makes little sense to prohibit waiver of counsel in all cases, whether a juvenile is a 1st or 4th offender, whether the charge is Simple Battery or Armed Robbery, and whether the juvenile's family is indigent or wealthy. Additionally, it would make little sense to

prohibit waivers of counsel when it is constitutionally permissible for a juvenile to give a statement without counsel, or to enter a plea without counsel, when an "adult" just beyond his 17th birthday could clearly waive counsel and enter a plea in adult criminal proceedings." LDAA Position #3, p. 5, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Response

History. The Planning Team's recommendation presented to the Advisory Board on September 6, 2002, as Recommendation 5.05, was to amend or repeal the provisions of the Children's Code allowing waiver of counsel in delinquency proceedings. The recommendation was discussed at the September 6 meeting and led to the introduction of two alternative recommendations. The first alternative (Recommendation 5.05A) essentially eliminated the wording regarding amending and referenced the current prohibition on waiver of counsel in the FINS section of the Code. The second alternative (Recommendation 5.05B), introduced by the representatives of the district attorneys, eliminated the prohibition in the FINS statute. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing alternatives.

In accordance with the procedures established by the Advisory Board at its meeting of September 6th, the Planning Team mailed a copy of a ballot containing the original concepts and any alternatives to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes.

In the balloting, eleven members voted in favor of Recommendation 5.05, seventeen voted against, two did not mark their ballots, and fourteen did not return their ballots. Fourteen members voted in favor on Recommendation 5.05A, thirteen voted against, two ballots were unmarked, and fourteen were not returned. Twelve members voted against Recommendation 5.05B, fourteen voted against, three were unmarked ballots, and fourteen ballots were not returned.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Because the balloting was inconclusive on the issue, the chair asked that the matter be considered for discussion and for resolution by a vote of hands. On the basis of the vote by hands, Recommendation, 5.05A to repeal the provision eventually received approval from a majority of the quorum of members present and voting.

Rationale. The rationale for the recommendation is based on the following considerations:

1. **FINS Prohibition against Waiver of Counsel.** Recognizing the possibility of secure detention as a possible sanction, the Children's Code now provides a right to independent counsel for petitioned FINS children, which right is not subject to waiver. If waiver is prohibited in status offense cases where the possibility of detention is present, then waiver in more serious offenses where the range of consequences is even more severe presents a greater risk.
2. **Research.** Several Advisory Board members pointed to studies by the ABA and others criticizing the excessive use of such waivers in Louisiana. Other research also indicates that youth are not able to understand the ramifications and possible results of a waiver of counsel. Such research also shows that juveniles can be led to waive their right to counsel when it is not in their best interests to do so. (See Notes to Stakeholder Findings, 5.11W).
3. **Path of Least Resistance.** Because of the difficulty of finding or paying for competent attorneys to handle juvenile cases in many jurisdictions, some judges may take the path of least resistance. They may find it easier to get youth to waive their right to counsel than to find and pay for competent attorneys to defend such youth. The lack of indigent defender funding, however should not be an excuse for the excessive use of such waivers.
4. **Legal Questionability.** Reliability on waivers under our current system is questionable. Failure to adhere to the statutory requirements provides a basis for reversal of an adjudication (when the juvenile has the opportunity to appeal). See *State in Interest of J.G.*, 684 So.2d 563. Parental or caretaker guidance/consultation does not ensure a knowing and voluntary waiver. The adults themselves may not fully understand the consequences of the waiver. And caretakers have an inherent conflict of interest when inducing a waiver to minimize their own expense and inconvenience or when acting as moral guardians rather than legal counselors.

Note 6. Objection to the Study of the Regional Court System

Advisory Board Final Recommendations:

5.07 Study of the Specialization and Regionalization of Family and Juvenile Courts. (**NOT AT ISSUE:** In light of available research confirming the effectiveness of specialized courts, we recommend that the Judicial Council or another appropriate judicial agency designated by the Supreme Court, study and make recommendations relative to the further specialization of sections or divisions of general jurisdiction district courts to address more effectively family and juvenile cases, e.g., one-family/one-judge policies, dependency divisions or sections, juvenile mental health courts, juvenile drug treatment courts, and unified family courts.) We also recommend that the Judicial Council or another appropriate judicial agency designated by the Supreme Court study and make recommendations on the feasibility of establishing a regional juvenile court system that would have the following characteristics:

- The system would have to be more effective and less expensive than the current system.
- There would have to be a way to pay for the new system without taking money away from existing programs to juveniles, especially treatment programs.
- The new system would not alter the districts from which district attorneys are elected, nor would it require district attorneys to prosecute in jurisdictions other than their own.

Advisory Board Action Plan, Judicial Branch Action #5

| Judicial Branch Actions | | | |
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| 1. ASFA Compliance | Action | AB 4.18 | 4/03-ongoing |
| 2. CASA | Action | AB 4.19 | 4/03-ongoing |
| 3. Alternative Dispute Resolution | Action | AB 5.04 | 4/03-ongoing |
| 4. Correctional Funding Transition Plan | Action | AB 3.14 | 4/03-ongoing |
| 5. Study of the Specialization and Regionalization of Family and Juvenile Courts | Action | AB 5.07 | 10/03-ongoing |

Dissent: District Attorneys of Louisiana

"The District Attorneys of Louisiana oppose the creation of the Office of Children, Youth and Families; the creation of the Louisiana Juvenile Justice Planning and Coordination Board; the creation of the Regional Juvenile Justice Planning and Coordination Advisory Boards; and the "study" of regional juvenile courts." LDAA Position #2, p. 3, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"The Louisiana District Attorneys also oppose the establishment of the Louisiana Juvenile Justice Planning and Coordination Board, Regional Juvenile Justice Planning and Coordination Boards, and a "study" of regional juvenile courts. Sections 3.01, 3.02 and 5.09, respectively," LDAA Position #2, p. 4, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"The JJC Advisory Board was presented with no information to justify the creation of these new boards, or to justify a "study" of regional juvenile courts. Further, the Advisory Board was furnished with no information to suggest that the new boards will not duplicate the functions of existing entities, such as the Children's Cabinet and its Advisory Board." LDAA Position #2, p. 4, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

" The Louisiana District Attorneys Association, through its Board of Directors, opposes the concept of regional juvenile courts, and therefore opposes a study of that concept. We believe that the people of our parishes prefer to have their children adjudged by locally elected juvenile judges who know their communities, and who know many of the juvenile offenders, their victims, and the families of both victims and offenders. It would be inappropriate to dilute the authority of our local district courts." LDAA Position #2, p. 4, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Response

History. The recommendation for the study of the specialization and regionalization of juvenile courts was first presented to the Advisory Board on September 6, 2002 as part of the Planning Team's Preliminary Draft of Concepts, a document requested by the

Advisory Board at its meeting of July 11, 2002. Recommendation 5.10 was available for discussion through working group meetings in the afternoon of September 6 and was specifically discussed by the Advisory Board at the end of its meeting on that same day. The representatives of the Louisiana District Attorneys Association stated their opposition to the concept of the study of regionalization and proposed an alternative that retained the language regarding "specialization" and eliminated the language on "regionalization." The alternative was numbered as Recommendation 5.10A. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing further alternatives.

In accordance with the procedures established by the Advisory Board at its meeting of September 6th, the Planning Team mailed a copy of a ballot containing the original concepts and any alternatives to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes. In the balloting, seventeen members voted for the original recommendation (i.e. keeping the study), nine voted against, three ballots were not marked, and fourteen ballots were not returned. In the same balloting, fifteen members voted for the alternative 5.10A, eleven voted against, three ballots were not marked, and fourteen ballots were not returned.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Because the balloting was inconclusive on the issue, the chair asked that the matter be considered for discussion and decided by a show of hands. On the basis of the hand vote, the original recommendation, (5.10) received 23 positive votes, constituting a majority of the entire Advisory Board.

Rationale. The rationale for the recommendation is based on the following considerations:

1. **Complexity of the System.** The current juvenile court system consists of seventy-seven jurisdictions. Four juvenile courts have exclusive juvenile jurisdiction. Thirty-seven district courts having general purpose jurisdiction including juvenile jurisdiction; and approximately thirty-six city and parish courts have general jurisdiction including juvenile jurisdiction. The four juvenile courts have a geographical jurisdiction coterminous with their respective parishes. Some of the thirty-seven general jurisdiction district courts have a single parish geographical jurisdiction; others have a multi-parish jurisdiction. Most of the city courts have a geographical jurisdiction coterminous with their local municipalities; others have slightly larger jurisdictions, some even operating parish-wide. The one parish court having juvenile jurisdiction operates parish-wide. The system has approximately one hundred fifty judges exercising juvenile jurisdiction, Most of these judges do not

handle juvenile cases exclusively. The workloads are very uneven throughout the system. Some of these judges have heavy juvenile caseloads; others have much smaller juvenile caseloads. In some jurisdictions, juvenile cases are scheduled one or two days per month, making it difficult for such judges to comply with the mandatory timelines of the Louisiana Children's Code or the federal Adoption and Safe Families Act (ASFA).

The courts with juvenile jurisdiction are financed through multiple sources that vary from district to district. Most of these courts claim that they do not have the resources needed to properly operate. The system is not organized on a population or workload basis. The geographical jurisdictions do not change, unless by specific legislation. The number of judges may increase in a district as a result of population change or workload change but the number is never decreased on similar bases. And so, the number of judges in the system may constantly grow, even though the number of resources needed to support those judges or to provide needed juvenile services may not grow accordingly.

The first rationale, therefore, is based on considerations relating to simplification, flexibility, and rational organization. Parish boundaries are not sacred. All of our elected representatives run from districts based on equal population size. These districts traverse parish boundaries. Many state agencies and their services are organized on a multi-parish, basis taking into account workload and population. The purpose of these simpler and more flexible districts is to match as closely as possible resources with need. Our present court structure does not do that.

2. **Juvenile Justice Expertise.** The law schools of Louisiana, as well as most law schools in the nation, do not mandate the study of juvenile law. As a result, the vast majority of lawyers and new judges in Louisiana are unfamiliar with the provisions of the Louisiana Children's Code and are not well versed in child welfare and juvenile justice theory. In addition, juvenile law, unlike many other areas of practice, is not a lucrative field. There is very little money to be made in it and consequently there aren't many lawyers who practice it regularly.

Our current system of organization with its seventy-seven districts makes it very difficult to elect judges with juvenile justice expertise and to recruit and allocate knowledgeable attorneys to serve in the system. A regional system dedicated solely to juvenile law might alleviate this problem.

Note 7. Objection to the Creation of a Statewide Office of Juvenile Advocacy and Representation

Advisory Board Final Recommendations:

5.12 Creation of a Statewide Office of Juvenile Advocacy and Representation. We recommend that the juvenile defense function currently implemented through district indigent defender boards be centralized into an independent statewide juvenile defender service having common guidelines, supervision, and common pay plan. We further recommend that this Office develop and implement a set of mandatory best practice standards for representing youth and that the Office provide continuing training, education, and support to ensure the utilization of these standards.

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| 9. Creation of Statewide Office of Juvenile Advocacy and Representation | Special Bill | AB 5.12 | 8/03-ongoing |
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Dissent: District Attorneys of Louisiana

"We suggest that juvenile defense services should be extended through local indigent defender boards, and that the services offered juveniles should be strengthened through increased CLE requirements and pay supplements. In this regard, we are in agreement with the proposals of Patrick Martin, Governor Foster 's representative, whose suggestions are embodied in Section 5.12 (Sic: 5.10) of the Draft Recommendations." LDAA Position #4, p. 5, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

"We have emphasized the need to strengthen local judicial districts, including local juvenile courts and indigent defender boards, rather than to dilute their authority. We further suggest that rural areas would be seriously "short-changed" by the establishment of regional juvenile courts and/or an independent statewide juvenile defender service." LDAA Position #4, p. 5, Louisiana District Attorneys Association, Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Response

History. The recommendation for the creation of a Statewide Office of Juvenile Advocacy and Representation was first presented to the Advisory Board on September 6, 2002 as part of the Planning Team's Preliminary Draft of Concepts, a document requested by the Advisory Board at its meeting of July 11, 2002. Recommendation 5.16 was available for discussion through working group meetings in the afternoon of September 6 and was specifically discussed by the Advisory Board at the end of its meeting on that same day. The representatives of the Louisiana District Attorneys Association stated their opposition to the concept at that time. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing further alternatives.

In accordance with the procedures established by the Advisory Board at its meeting of September 6th, the Planning Team mailed a copy of a ballot containing the original concepts and any alternatives to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes. In the balloting, twenty members voted for the concept, five voted against, four did not mark their ballots on this issue, and fourteen did not return their ballots.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Because the balloting was inconclusive on the issue, the chair asked that the matter be considered for discussion and decided by a show of hands. On the basis of the hand vote, the recommendation was approved.

Rationale. During the public hearings, the Advisory Board heard from numerous persons about the low salaries, workloads, lack of supportive services, and low level of training of indigent defenders throughout the state, especially those handling juvenile justice. In addition, numerous studies of Louisiana, which are cited in the Notes to the Advisory Board's Findings, strongly corroborate that these conditions exist and are pervasive. Currently, it is widely recognized that juvenile justice is one of the lowest funding priorities of the district indigent defender boards. In addition, state funding from LIDAB can only be used in the defense of juvenile felonies. The Advisory Board's recommendation to create a statewide office of juvenile advocacy and representation is an attempt to remedy this chronic problem.

Note 8. Objection to the Relocation of OJJDP Funding to the Children's Budget

Advisory Board Final Recommendations:

3.01, Bullet Six

"Ensure that the actions of the LCLE/OJJDP Board are consistent with the policies of the Children's Cabinet and the Louisiana Juvenile Justice Planning and Coordination Board."

3.04, Bullet Six

"Provide for the pooling of all appropriated federal, other grant, and matching funds relating to treatment services affecting children, youth and their families in an account or accounts to be managed by the Division of Administration. Funding should be provided from the pool in terms of the appropriations provided by the Legislature for start-up costs and in terms of the vouchers received from service providers."

3.05, Bullet 3

"The Budget should include estimates of all costs associated with the direct delivery of child welfare services and juvenile justice services by executive branch agencies, including the costs of the Children's Cabinet, the costs of preparing the Children's Budget, a portion of the cost of the Mental Health Advocacy Service (MHAS), the cost of the juvenile and family services funded by the Louisiana Commission on Law Enforcement (LCLE), and other such services."

3.13 Dedication of LCLE Juvenile Funding. We recommend that the Louisiana Commission on Law Enforcement (LCLE) dedicate in the next five years any available juvenile justice funds not encumbered by prior commitments or prohibited by federal law or regulation exclusively to the following purposes:

- The funding of exemplary juvenile justice alternative sanctions (see Recommendation 4.04) operated by community-based organizations approved by the Children's Cabinet;
- The funding of exemplary mental illness and substance abuse treatment programs (see Recommendation 4.04) operated by community-based organizations approved by the Children's Cabinet."

Dissent: District Attorneys of Louisiana

"The Louisiana District Attorneys Association is proactively working toward the development and statewide implementation of model multi-disciplinary, early

intervention programs, such as those currently in place in many Judicial Districts. Most, if not all of the early intervention programs throughout the state are operated by judges, district attorneys, sheriffs, and others on the basis of grants funded by the Louisiana Commission on Law Enforcement. The Commission has served the juvenile justice system well, for many years. All grant awards are subject to rigid federal guidelines. The Louisiana District Attorneys, therefore, strongly oppose the relocation of this funding function to the Children's Budget."

Dissent: Louisiana Sheriffs' Association

In a communication conveyed directly to the Chair of the Juvenile Justice Commission, the Louisiana Sheriffs Association went on record affirming the positions taken by the district attorneys of Louisiana in their Response to the Recommendations of the Juvenile Justice Commission Advisory Board, January 22, 2003.

Dissent: Louisiana Commission on Law Enforcement

"Please consider these comments and the *JJDP Advisory Board 2000-2001 Annual Report*, the *Juvenile Accountability Incentive Block Grant Program 2001 Summary*, and the attached *Report on Federally Funded Juvenile Projects by Judicial District* as the formal "minority report" from the Louisiana Commission on Law Enforcement as an addendum to the final Juvenile Justice Advisory Board Report to the Juvenile Justice Commission and the State Legislature.

It is the strong feeling of the appointed members and the staff of the Louisiana Commission on Law Enforcement that the administration of O.J.J.D.P. funds should remain with the L.C.L.E. Regional meetings have been conducted by local law enforcement planning districts since the inception of the J.J.D.P. Act over twenty-five years ago, reflecting community involvement and input of local law enforcement and juvenile justice professionals in the vast number of juvenile justice programs that have been approved for funding by the L.C.L.E. A system of checks and balances has been in place through federal and state monitoring processes, and there has been proven performance in meeting the mandated federal guidelines for these programs. A dedicated State J.J.D.P. Advisory Board has been in place and reviewing these juvenile justice grants, along with staff members of the L.C.L.E., for twenty-five years. Many of the members of that advisory board have been in the juvenile justice field for twenty-plus years, and the Chairman of the Advisory Board, Bernardine Hall, has served as Chair of the National Coalition for Juvenile Justice. The L.C.L.E. is very committed to the J.J.D.P. program, which is one of the most productive initiatives in the State for juveniles in the system, with funding priorities reflecting its commitment to delinquency prevention, alternatives to secure custody and diversion from the court system for juveniles. Attached to these comments are three reports detailing and outlining L.C.L.E. funded juvenile justice programs, which, as you will see, readily attest to the commitment

of the L.C.L.E. board members to fund outstanding and progressive juvenile justice programs."

Response

History. The recommendations pertaining to the Louisiana Commission on Law Enforcement were first presented to the Advisory Board on September 6, 2002 as part of the Planning Team's Preliminary Draft of Concepts, a document requested by the Advisory Board at its meeting of July 11, 2002. The recommendations were available for discussion through working group meetings in the afternoon of September 6 and were specifically discussed by the Advisory Board at the end of its meeting on that same day. The representatives of the Louisiana District Attorneys Association and the representative of the OJJDP Board of the Louisiana Commission on Law Enforcement stated their opposition to some of these concepts at that time. Members were encouraged at the end of the meeting to develop ways to reconcile their opposing views between September 6 and September 13th by either suggesting changes in language or by proposing further alternatives.

In accordance with the procedures established by the Advisory Board at its meeting of September 6th, the Planning Team mailed a copy of a ballot containing the original concepts and any alternatives to each Advisory Board member on September 15, 2002. The members were asked to complete and send in their ballots no later than 12 midnight on Wednesday, September 18, 2002. The memorandum of transmittal indicated clearly that persons not sending in ballots by that date would be assumed to be in favor of all statements. In addition, the transmittal memorandum clearly explained that all blanks on the ballot sheets would be counted as favorable votes.

In the balloting, sixteen members voted for Recommendation 3.01 which included the language of 3.01, Bullet Six, above. Eleven members voted against Recommendation 3.01, one member did not mark the ballot relating to this recommendation, one marked approval to be conditional, and fourteen did not send in their ballots. Six members voted for Recommendation 3.01A which removed the language relating to LCLE, twenty voted against, two did not mark their ballots, and fourteen did not send in their ballots.

With respect to Recommendation 3.04, Bullet Six, there were two alternatives. In addition to the current language of 3.04, the original concept proposed that the Children's Cabinet serve as a clearinghouse of all grant funds relating to children, youth and families. The alternative 3.04A deleted that provision. In the balloting, eleven members voted for the original recommendation, seventeen voted against, one did not mark the ballot, and fourteen did not return their ballots. Fifteen members voted for the alternative, thirteen voted against, one did not mark the ballot, and fourteen did not return their ballots.

With respect to Recommendation 3.05, Bullet Three, twenty-one members voted for the recommendation, five voted against, three did not mark their ballots, and fourteen did not return their ballots.

With respect to Recommendation 3.13 (3.14 was its number at the time of balloting), nineteen members voted for the recommendation, seven voted against, three did not mark their ballots, and fourteen did not return their ballots.

The Advisory Board met on September 20th to review the results of the ballots and to finalize its recommendations for public review in October. Because the balloting was inconclusive on some of these issues, the chair asked that these matters be considered for discussion and decided by a show of hands. On the basis of the hand vote, the recommendations, as provided above, were approved by a majority of the quorum present and voting.

Rationale. The rationale for these recommendations rests on the following considerations:

1. **General Intent.** The general intent of these recommendations is **not**:

- to administer OJJDP funding through the Children's Cabinet or any entity other than the LCLE;
- to literally take OJJDP funding out of the budget of LCLE and place it in the Children's Budget;
- to place OJJDP funding in the single pool recommended under 3.04, Bullet Six.

The general intent **is**:

- to have the LCLE budget listed in the Children's Budget in the same manner as the budgets of other departments and agencies affecting children are listed, e.g., the Department of Education, the Office of Youth Development of the Department of Public Safety and Corrections, the Department of Social Services;

(The Children's Cabinet does not control the funds listed. The purpose is simply to account for the amount of funds being invested in children by the state and to use that information for planning purposes.)

- to ensure that OJJDP funds are included strategically in the effort to reduce incarceration and to provide for alternative sanctions, as well as prevention and early intervention programs; and
- to ensure that all programs affecting children, youth, and families, including OJJDP programming, will be knowledge-based.

2. **Strategic Investment Issue.** The state should strategically invest more resources into preventative/early intervention treatment programs and alternative sanctions as a means of reducing the current system of costly and less effective juvenile incarceration. This investment should be designed to reduce the number of juveniles being sent to current juvenile prisons and to reinvest the savings into additional preventative/early intervention treatment programs and alternative sanctions until such time as the state has a balanced, less costly, and more effective system of sanctions. LCLE has funding which should serve the state in this effort. The programming of these funds should be strategically linked to the intent indicated above.

3. **Knowledge-Based Issue.** All future state programs relating to children, youth, and families should be knowledge-based, i.e.

- they will be based on exemplary or promising national programs (best practices);
- they will be monitored and evaluated in accordance with the system of evaluation to be developed through the Children's Cabinet for all juvenile justice programs; and
- they will be carefully planned to be outcome driven.

LCLE should not be exempt from this requirement.