

Review Panel on Prison Rape – Juvenile Facility Hearings

June 4, 2010

Testimony of Tennessee Department of Children’s Services
Division of Juvenile Justice

Pursuant to the invitation extended by Counsel for the Panel, the State of Tennessee, Department of Children’s Services, (DCS) Division of Juvenile Justice (DJJ), by and through Steven C. Hornsby, Deputy Commissioner, submits the following written testimony. References to “Response” refer to the written response to the Request for Information submitted by the Panel on April 30, 2010.

DCS leadership strongly believes in open, transparent operations with an attitude of continuous system improvement, and the highest levels of professional integrity. It is in that spirit that we submit this testimony.

1. History and organization. Tennessee has long recognized the need for a juvenile justice system that is separate and distinct from the adult correctional system and which is focused on rehabilitation, treatment and training of young offenders (Tenn. Code Annot. 37- 1-101, “Purpose”, 1970). Juvenile corrections was separated from adult corrections in 1987 by creation of a separate department, the Department of Youth Development, which was later combined with child welfare and mental health agencies to form DCS (1996).

The current department handles all child protection, dependency, abuse, neglect and delinquency children in custody of the state. About 1700 youth with delinquency adjudications are in custody under the care of the Division of Juvenile Justice (DJJ), 432 of whom are in five (5) secure care youth development centers (YDC). The YDC’s are small to medium sized facilities, varying in population from 96 youth (Taft YDC) to 120 at Woodland Hills. The remaining delinquent youth in custody are in a variety of placements including, private and state operated group homes, therapeutic foster care and adolescent mental health facilities.

A. *Externalized investigations.* As part of a larger child welfare organization, all investigatory functions are external to DJJ. Internal Affairs is under the Office of Inspector General, headed by the Inspector General and Special Investigations Unit is under the Division of Child Safety, headed by the Executive Director of Child Safety. **All reports of**

child abuse involving students are handled by either of these two offices; **none** are handled in-house by DJJ.

B. *Annual External Reviews.* Each year, the Tennessee Commission on Children and Youth (TCCY, which is the JJDP A-designated SAG), leads a Quality Service Review (QSR) team composed of both external and internal staff who conduct an intensive on-site operations review at each YDC. QSR includes extensive file reviews and private interviews with students, their families, contract service providers and staff. The review process includes a review of safety issues and concerns. The review team releases its findings at a meeting attended by all the participants, plus YDC and Central Office leadership. All findings are openly discussed and recommendations given for improvements. Results are compared to previous findings and statewide results. Continuous improvement actions are agreed on. The final report is released to DCS management and the entire department. *Woodland Hills YDC scored either 100 or near 100 on “Child Safety” for the last three years.*

C. *External Service Providers.* DJJ contracts with external providers for most of its behavioral health services, including individual and group counseling, substance abuse and sex offender treatment. Service provider staff are essentially ‘imbedded’ into each facility and are on campus five (5) days per week, often more frequently. They have full access to all parts of the campus and to all students. They are members of all treatment teams and child and family team meetings. **Vanderbilt University**, a nationally recognized medical center, is the provider for Woodlands Hills YDC.

D. *Free Legal Counsel on Each YDC Campus.* DJJ provides free legal services to any YDC student who requests it. DJJ contracts with a private attorney to provide free legal representation on campus. Students may request to see the attorney simply by signing up for the appointment list or by notifying any staff member. Attorneys are on campus at least monthly and as needed.

E. *ACA Accreditation.* All YDC’s are accredited by the American Correctional Association, including Woodland Hills YDC. For the 2007 accreditation cycle, Woodland Hills received a score of 99.5%.

2. Prior compliance. Prior to the survey conducted by Westat on behalf of the Bureau of Justice Statistics, DJJ had adopted the philosophy of PREA in its policies, training and student relations.

A. *Staff training.* Standard pre-service training requirements includes a 2 hour course on PREA, its requirements and philosophy, as well

as numerous other courses on state and federal laws, Department of Human Resources and DCS policies regarding sexual misconduct, workplace harassment, ethics and professionalism. *See Section 19, Response.*

B. *YDC policies.* Each YDC, including Woodland Hills, have policies designating a staff member as the responsible person to receive and handle student reports of sexual abuse, youth belief of physical danger and access to legal counsel. *See Section 1, Response.*

C. *Student Handbook.* The student handbook contains specific instructions on how students may report concerns about sexual activity or harm. *See Section 1, Response.*

D. *Cameras.* DJJ recognized the need for greater surveillance capabilities in order to improve overall safety at all YDCs prior to the Westat survey. DJJ initiated a budget request for camera installation in 2007. ***Cameras were installed in all YDCs in 2009.***

3. Actions taken since the Westat survey. *For a more detailed list, see Response, Section 21.*

A. *PREA Compliance Task Force.* Led by the Deputy Commissioner, this workgroup has undertaken a comprehensive review of the current system to determine how the survey results occurred, system deficiencies, what needs to be strengthened or discarded. The group includes internal and external partners, including TCCY. Significant actions include:

- Policy review – a new PREA-specific policy has been drafted and is being implemented. The new policy includes employee and student notification forms that must be explained to each staff and student and signed. The signed form becomes part of the personnel or student file.
- PREA Awareness Campaign – each Superintendent has met with all staff regarding PREA, current policies, state laws regarding child sexual abuse and department policies for violations. A FAQ sheet has been created and circulated as well as a “hotline” reporting poster.
- Student handbook is being revised to make it even more student friendly and expand the section about sexual abuse and how to report any violations.
- Training curriculum is being reviewed for enhancing PREA-related material, including protecting vulnerable youth.
- PREA-specific medical staff training is underway. All nursing staff will be trained in Sex Abuse Nurse Examiner procedures.

- All legal and health care providers have been briefed about PREA and reminded of their role as statutorily - mandated reporters for any physical or sex abuse violations.
- External review of prior investigations - SIU and IA have undertaken an extensive review of all prior referrals of sexual and physical abuse for accuracy and thoroughness.
- External interviews of 160 youth currently in all YDCs – the Special Investigations Unit and TCCY are conducting interviews of approximately 40% of youth currently in YDC’s. These are still underway, and the SIU Executive Director and TCCY will report on Woodland Hills results at the hearing on June 4.

4. Concerns regarding the survey/reporting process. We have concerns with the survey process that may have contributed to Woodland Hills appearing on the list:

- The small size of the student population and the relatively high number of participants.
- The opportunity for students that had completed the survey to discuss it with other students who were yet to take it.
- The survey is based only on the statements of youth and did not include other persons who are present in the facility regularly and have unfettered access to students and family.
- The report does not take into account the overall operating environment/culture of the facility. Factors such as programming, use of the grievance process, use of external resources, overall openness and opportunity of access to outside agencies could be evaluated.

After thoroughly reviewing all of the facts, we have significant concerns that Woodland Hills was identified and labeled as “having a high prevalence of sexual victimization” when there is virtually no corroboration of that by other factors. Despite the presence of external counselors, attorneys, investigators and reviewers, all of whom could file a report on behalf of student, there were **no reports** of student sexual victimization during the time period identified. *See Section 16, Response.* It seems highly unlikely that a ‘high prevalence’ of such activity could exist without reports being made or some other form of corroboration. Further, initial results from the external interview of students that has been conducted by SIU and TCCY indicates that there is no pervasive culture of fear, intimidation or indifference that would allow a ‘high prevalence’ of sexual victimization to exist. We will share those results in greater detail during oral testimony.

5. Conclusion. Tennessee regrets having a facility on a list which indicates a high prevalence of sexual victimization as compiled by Westat. We have treated this matter with the utmost seriousness and have begun correcting any deficiencies necessary to fully comply with PREA.

Respectfully submitted, this 19th day of May, 2010.

Steven C. Hornsby
Deputy Commissioner, Division of Juvenile Justice
Tennessee Department of Children's Services
436 Sixth Avenue
9th floor, Cordell Hull Bldg.
Nashville, TN 37243-1290