

**COUNTY OF SANTA CLARA
JUVENILE JUSTICE COMMISSION
APPROVED Meeting Minutes-January 3, 2017
Crime Lab, 1st Floor
250 W. Hedding St.
San Jose, CA 95110**

Commissioners Present: Anusha Agarwal
Penny Blake
Dana Bunnett
Victoria BurtonBurke
Bonnie Charvez
Raul Colunga, Chair
Brittney Dong
Gustavo Gonzalez
Ron Hansen, Secretary
Courtney Macavinta
Nora Manchester
Jean Pennypacker, Vice Chair
Carol Rhoads

Commissioners Absent: Vincent Tarpey

Also Present: Honorable Pat Tondreau, Superior Court
Honorable Margaret Johnson, Superior Court
Honorable Katherine Lucero, Superior Court
Honorable Franklin Bondonno
Carissa Keller, Superior Court
Jenny Lam, County Counsel's Office
Robert Young, Probation Department
Laura Garnette, Probation Department
Elsa Jennings, Probation Department
Nick Brichard, Probation Department
Cathy Rodriguez, Probation Department
Kathy Martinez, Probation Department
Vone Kegarice, Probation Department
Sean Rooney, Probation Department
Carl Tademaru, Probation Department
Michael Clarke, Probation Department, James Ranch
LaRon Dennis, District Attorney's Office
Murat Ozigur, District Attorney's Office
Elisa Kuhl, District Attorney's Office, Victim Services
Nisreen Baroudi, Public Defender's Office
Kevin Rudich, Alternate Defender's Office
David Epps, Alternate Defender's Office
Katja DeGroot, OHR
Jennifer Hubbs, Department of Family & Children's Services (DFCS)
Melissa Suarez, Department of Family & Children's Services (DFCS)
Lauren Gavin, Behavioral Health-Mental Health Services
Chia-Chin Lee, Valley Medical Center
Allan DeLaCruz, San Jose Police Department, Gang Investigation Unit
Gabriel Cuenca, San Jose Police Department, Gang Investigation Unit
Nader Yeasin, San Jose Police Department, Gang Investigation Unit
David Putney, Santa Clara County Office of Education (COE)
Sakeenah El-Amin, FLY
Sally Lawrence, BHDS/DADS
Jennifer Kelleher Cloyd, LACY

Guests Present: None.

Call to Order & Introductions: Chair Colunga called the meeting to order at 12:18 p.m. All who were in attendance stated their names and organizations.

Agenda Approval:

Moved by Commissioner Gonzalez and seconded by Commissioner Manchester, the agenda, as amended, was approved unanimously.

Public Comments/Oral Petitions: None.

Approval of Minutes:

Corrections to minutes are as follows:

Page 1, under **Commissioners Present and Commissioners Absent:** Commissioner Brittney Dong was listed both as being present and being absent. Commissioner was in fact absent from the December 6, 2016 meeting and therefore her name should be deleted from being present.

Page 10, under **Public Defender's Office:** First line reads, JJ *Capp* reported on the following: should read, JJ Kapp reported on the following:

Page 10, under **Public Defender's Office:** first bullet point reads, "*A supervisor* from the Public Defender's Office is at a training sponsored by IDO with Lana *Creedy* presenting." should read, Nisreen Baroudi from the Public Defender's Office is at a training sponsored by IDO with Lana Kredie presenting.

Page 11, under **Medical Services**, second bullet point, Item 1, Security update, first bullet point reads: Children in custody with pre-established website MHO access are able to find out when the next appointment is *and plan for post release*. Should read ...and perhaps use that information to facilitate an escape. In the same paragraph, second sentence reads: Although the kids may or may not have access to the internet in Juvenile Hall, the parents/friend outside can use the website MHO information of future appointment to *assist for post release*. Should read: ...facilitate an escape.

Moved by Commissioner Manchester and seconded by Commissioner Gonzalez to approve the December 6, 2016 minutes as amended, was approved unanimously.

REPORTS

Chair's Report: Chair Colunga reported on the following:

- JJC will identifying successors to the Chair, Vice Chair and Secretary positions and will initiate that process in April/May so that successors can be designated in June for a July start.
- Still working on selecting a new commissioner with the hopes of having someone in place in February.
- Currently working on a Group Home inspection that started as a visit but discovered several items of concern. The Commission returned to conduct a full inspection, wrote a report and is now following-up to check compliance. One initial recommendation was that Probation and DSCF would no longer make placements until the items of concern are corrected. CCL also

initiated an investigation as a result of the findings listed in the report. Item will be reviewed in Executive Session with hopes of finalization in February 2017.

- Juvenile Hall inspection is underway with a final report and approval expected in February 2017 and will post the report once it is approved.
- The JJC July meeting falls on July 4, 2017, which is an observed holiday. JJC is working to change the meeting to July 11, 2017 as a rescheduled meeting date as soon a location can be confirmed.
- JJC wrote letters to Legislators, Ash Kalra, Jim Beall, and Evan Low regarding AB403, requesting amending the Welfare and Institutions Code to allow JJC's to play an integral role in the new term for group home, which is the Short Term Residential Treatment program. Correction of language of the bill with an insertion the JJC's have that ability and it was not included in the final language so rather than wait for them to amend the Bill it was decided to take the approach to have them look at writing it into the Welfare and Institutions Code that commissions would have that oversight responsibility.

Juvenile Justice Court: Judge Tondreau reported on the following:

- Beyond the Bench Conference will be January 27, 2017 and a few tickets are left. Robert DeJesus will receive the Distinguished Service Award, and Darlene Tenes, a volunteer in Juvenile Hall will receive the Unsung Heroes award.
- Francesca La Rue, newly appointed director of DFCS, will begin on Monday, January 9, 2017.

Judge Lucero reported on the following:

- Informal Juvenile Traffic Court has been terminated as of January 3, 2017. Courts are thus restructuring how they will handle truancy, seeking a community/school solution. Twenty-five (25) percent of traffic cases will go to Adult Traffic Court. All other misdemeanors and infractions will be handled by REL. There will no longer be an informal administrative officer imposing fines and fees and suspending driver's licenses for truancy, other misdemeanors, and infractions. JJS stake-holders decided this old model was no longer working, especially after the moratorium on fines and fees for incarceration, EMP, and Public Defender fees. Instead there will be a best-practices model, replacing "during school and in the courthouse" with "in the community and after school".

Commissioner Pennypacker commented to Judge Lucero about the majority of items that came to the Admin Officer having to do with unpaid fares on County Transit, and asked if kids are allowed to ride for free. Judge Lucero said fares are now an administrative process for VTA, no longer a police intervention but rather an administrative intervention. The DA's Office and others are trying to allow for minors with valid school ID to ride for free and are working with Supervisor Cindy Chavez and VTA. VTA will have to establish an administrative hearing process for fare evasion if no other arrangement is made. There were also many tobacco possession cases. But it is no longer against the law for a minor to possess tobacco, only to sell to a minor. Much has changed since the court was instituted, and where minors were treated very harshly, even some times locked up, the court would rather divert them and no longer wants to impose fines and fees, preferring to handle these status offenses differently.

- With the passage of Prop 57 (elimination of Direct File) many cases are being handled. There are 40 cases rather than 70 cases originally expected. Stake-holder partners have been amazing in making sure that everyone has enough time to process the cases, so there is no update.
- Prop 64 (Marijuana). The selling of marijuana is no longer a felony, but now an infraction, even for a minor on a school campus.
- Court will be mostly dark January 27, 2017 due to the Beyond the Bench Conference. Judge Johnson will hear detentions, with the rest of the judges attending the conference.

- Judge Silva will join the Juvenile Justice Team on January 17, 2017.
- The parking pass order intended for families of minors was not submitted in time, but it is hoped the passes will arrive in the next 48 hours.

Judge Bondonno reported on the following:

- The first new psychologist is in contract with the county, with a second psychologist in the contract process. The Palo Alto University group is working on a proposal that should be complete by the end of the month.

Judge Johnson reported on the following:

- Judge Johnson thanked LaRon Dennis & Elisa Kuhl for temporarily securing parking passes for families.
- January 17, 2017 will be the official day judges change assignments and although Judge Johnson is retiring, she will be around until the end of January to train her successor, Judge Silva.
- The CBO training meeting will be held soon regarding next year's projections.
- Parentage protocol is complete but needs to be fine-tuned and will be presented to stake-holders to explain how it will be mostly an automatic process.
- The Juvenile Justice flow-chart has been revised and is being finalized.
- Validation machines for parking are still being planned.
- On February 3, 2017 from 11:00-2:00 a retirement party to honor Judge Johnson will be held on the 8th floor of the new court house.

Commissioner Dana Bunnnett thanked Judge Johnson for her service and her commitment to youth.

Commissioner Hansen inquired about Prop 57, asking if the increase in population count in the Awaiting Court category was due to bringing these kids back. Judge Lucero said they are not setting these cases right away for transfer hearings but rather putting them out four (4) to six (6) weeks, just to see if they are going to set it. There may be some long pauses due to the severity of crimes, adding that the probation report must be extremely comprehensive. Mr. Birchard said they look at Courtesy Holds as well because they are brought back to Juvenile Hall. Commissioner Pennypacker asked about the Detained Awaiting Court, with some people coming back. She noticed that in-custody days are short, adding that some have 300 days in-custody and asking if that was factored in. Mr. Rooney said that once there is a status change from courtesy hold to awaiting a hearing they start over adding that it is basically a change in status. Once they are brought back to the Juvenile side the clock restarts. They will get credit for the other time but that will have to be factored in later. Judge Lucero added that a petition is filed and a detention hearing is held, so it is accurate to say that but said that Commissioner Pennypacker is correct in that they are not capturing those days. Judge Bondonno added that at least the DA's Office and the PD's Office generally are saying they want to work out a solution and would be grateful if it was not set right away. Ms. Baroudi said some cases are so serious that a kid may come back to the PD, attorneys on both sides are asking for 6 month continuances because it is a co-defendant case, someone is being tried in another county or they may get "L" walked then they may give our kid a 16 year term. Therefore you may see these cases sit for a long time before it is resolved. Mr. Birchard said that may not be any different and it may just be showing up in the system because direct files may have gone over to adult court. Judge Lucero added that the Probation Department spent much time more than one year ago figuring out different programming adding that there is a lot going on with these cases that they may not hear about. There is acknowledgement that these kids are growing up, adding that more should be done.

Chair Colunga thanked Judge Johnson for her years of service, and particularly for interest she has taken in the Court-Users implementation efforts. Chair Colunga wished Judge Johnson well in her retirement.

Dependency Court: No report.

Probation Department Juvenile Program: Mike Clarke reported on the following:

- Construction will soon begin at James Ranch. Meetings with the architect and Fire Marshall took place and now they are getting plans and permits in place. A fence will be installed to protect the site. The project will take approximately 2 years.

Commissioner Pennypacker asked if it has already been designed and if they were going to follow the current design with three-quarter tall interior walls. Mr. Clarke and Mr. Birchard responded saying the plans were completed seven (7) years ago and there would be a central hallway with pods and they will be within one building with full walls and a common area for the kids. Mr. Birchard said he would bring blueprints to the next JJC meeting.

Commissioner Gonzalez asked if the plans were drafted seven (7) ago, have blueprints been updated to meet current needs of housing for 72, the current maximum. Mr. Birchard said the facility is being built to house 109, the number funded seven years ago.

Sean Rooney reported on the following:

- Thank you to PDO, ADO and IDO for the successful pizza event.
- Thank you to all those that helped with the judging of the units for the Holiday contest at Juvenile Hall.
- Final inspection with the Fire Marshall for the cafeteria will take place the second week of January, with hopes to be in by the end of January.

Robert Young reported on the following:

- Passed the first ever PREA (Prison Rape Elimination Act) audit for Juvenile Hall and the Ranch which took approximately ten (10) months and covered 180 separate PREA Standards, a Federal mandate addressing sexual abuse and sexual harassment in the institutions between youth to youth and staff to youth. They are now 100% compliant and the final report will soon be on Probation's website. Mr. Birchard complimented Mr. Young and staff, saying much work went into the PREA audit and getting into compliance. Mr. Young thanked Chia and Lauren for their part.

Commissioner Pennypacker commented that BSCC (Board of State and Community Corrections) has been through and done an inspection. Ms. Jennings said the BSCC inspection was approximately a year ago and the report is still forthcoming. Mr. Rooney added that Santa Clara is the one of the last counties to be audited by the BSCC, which is why there is no report yet, adding that a completion letter with sign-off should be coming in a few weeks.

Kathy Martinez reported on the following:

- The population report for December 2016 was distributed. Population at Juvenile Hall is 74, with 66 males and 8 females. The Ranch population is at 27, with 22 males and 5 females.
- 10 youth are in out-of-home and foster care placement and 11 youth are in extended foster care. Of the 10 kids, 4 are out-of-state, 4 out-of-county and 2 in-county.

Department of Children and Family Service/Children's Receiving Center (DFCS): Jennifer Hubbs reported on the following:

- Francesca LaRue, the newly hired Director, will begin January 9, 2017.
- The request to extend the lease at the Enborg site has been approved and is in the final process.
- 2016 stats (January to November) have been sent to Commissioner Blake.
- Staff will resume official positions by January 30, 2017. Ms. Suarez will go back to ER, Ms. Hubbs will return to RAIC and Roxanne Stevens will assume the Bureau.
- Still on track with the East Valley Campus re-design project.

Melissa Suarez reported on the following:

- The overnight shift will now be staffed seven (7) nights a week with an on-site supervisor.

Judge Lucero asked how many kids are in foster care and if that information is in the stats. Ms. Hubbs did not have the information, saying those numbers are not in the regular stat sheet, but she will provide that information in the future. Commissioner Rhoads added that 1,114 youth were served by DSCF in November 2016. Judge Lucero said the numbers seemed low, adding that there are at least 200 non-minor dependents. Ms. Kelleher said that they probably are not coming up as being in foster care because of placement, adding that there are between 1,300 and 1,400 listed in the court stats. Ms. Hubbs said she will add the number of kids in foster care to the monthly report.

Behavioral Health - Mental Health Services: Lauren Gavin reported on the following.

- Beginning in January 2017, will resume Sunday clinic hours and now will be open 7 days a week.

Behavioral Health - Alcohol and Drug Services: No report.

Law Enforcement: No report.

Commissioner Gonzalez asked the SJPD officers what kind of activity they are seeing on the streets. Officer Yasin responded that the officers are from the Gang Investigations Unit and therefore not out on Patrol, adding that the unit is re-focusing on youth and has seen an increase in gang cases.

District Attorney's Office, Juvenile Justice: LaRon Dennis reported on the following:

- Approximately 40 Prop 57 cases have been sent over to court.
- Ms. Dennis and Ms. Baroudi have conducted one training on transfer hearings with Probation Officers and a second training is set for January.

Public Defender's Office: Nisreen Baroudi reported on the following:

- The Juvenile Hall/Ranch pizza party was a success and was extended to the Bill Wilson Center.
- Working with DDA Dennis on Prop 57 cases. Between PDO, IDO and ADO there are approximately 38 cases. Ms. Baroudi said there will be cases that folks that have already plead kids in adult court before the law passed, are going to want to talk to the DA. There are a few post-plea pre-sentencing cases, with issues such as withdrawing a plea or re-negotiation, and they are working together to resolve them. Two (2) cases have settled and an offer is expected in another.

- January 11, 2017 the PD and AD will be touring DJJ.
- January 21, 2017 there will be a training in Monterey put on by the California Public Defender's Association.
- January 31, 2017 will be a training on a new case: If a kid is found unfit and gets 20+ years, they are eligible for parole after 15 years. It is incumbent upon counsel's view to set up a time capsule because, when the kid goes the full 15 years, a record is created of what the minor was like at the time of the offense. The law says trial counsel, and it is unknown if that is the Juvenile attorney and if we are keeping them as the cases start because we might have them for a year, or if it is actually at sentencing.
- Probation has been helpful regarding Prop 64, and will provide a list of 2015 and 2016 open cases for assessment and hopefully get the cases reduced in court.
- Thanked Judge Bondonno for keeping court open the prior week and handling last minute requests.

Commissioner Pennypacker asked if there are expectations of more commitments to DJJ, and Commissioner Bunnett asked how the decisions are being made. Ms. Dennis said Juvenile Hall is not used for dispositions but rather holding them there pending whatever other resolutions may arise. Ms. Dennis added that the vast majority, if they resolve in Juvenile, will likely go to DJJ, saying the cases they are looking at resolving that's the resolution they are contemplating when they sit down with defense attorneys. Judge Lucero added that defense counsel and DA are allowed to plea-bargain, and Probation still has to write a report and give its recommendation. Many cases that would resolve for DJJ may have been going on for years. We want to do what we can to keep kids local but, in the scheme of things that with what we know with some of the programming with DJJ like the sex offender programming which is excellent, we need to have a broader view, what is in the youth's best interest. Ms. Baroudi added that they are trying to triage kids that are 18 and 6 months, and younger, adding that if there is any chance the kid is going to be found fit and remain in Juvenile Court we would like them at the Ranch. DJJ is only to the age of 23.

Independent Defender's Office: No report.

Alternate Defender Office: Kevin Rudich reported on the following:

- Thank you to Ms. Baroudi, Commissioners and LACY for help in making the pizza party for the kids a success.
- With Prop 57, the impact of cases starting out in Juvenile Court as yet to be seen.

Legal Advocates for Children & Youth (LACY): Jennifer Kelleher Cloyd reported on the following:

- Amanda Kennedy had replaced Ruby Marquez, who is now with County Counsel in Santa Cruz.
- Kids reaching the age of 18 who have developmental delays/needs are having placement challenges. Identifying developmental delays earlier would be preferable to hasten eligibility for San Andreas Regional Center (SARC) placement. Making sure if there are competency issues these are reviewed if there is another offense as an adult. Ms. Kelleher's memo outlining these issues will be shared with JJC.

Commissioner Macavinta asked Ms. Kelleher if her memo reflects the type of developmental delays seen and if screening is an issue that should be looked into. Ms. Kelleher said the memo regards primarily intellectual disabilities such as low IQ, but when combined with mental health challenges sometimes they are masked. She added that there is a lack of understanding -- that since an intellectual disability does not always present itself through initial conversation, communicating with education and sharing of information is important. Commissioner Bunnett said that with the issue at the regional center, it may be

difficult to get services, and she was unaware of an appeals process. Judge Lucero suggested a committee be formed to create a protocol regarding responsibility with follow-up for these kids. Commissioner Macavinta added that there is a 90% cross-over with Special Ed and they are getting suspended. Judge Johnson said the next Competency meeting in January 13, 2017 at 2:00 p.m. in Dept. 83. It was suggested to invite SARC and COE to the Competency meeting.

Medical Services: No report.

Alternative Schools Department, COE: David Putney reported on the following:

- Looking at how to refine and provide services with a lower enrollment and lower funds.

Judge Lucero commented on local control funding shifting and asked Mr. Putney if he was going to look at offering SAT prep and SAT tests. Mr. Putney said with local control funding, districts have more flexibility with their funds to provide services for students. Mr. Putney said he feels SAT is usually a more community-based function and he would like to look at a collaborative model.

- Newly appointed Juvenile Hall Principal Joel Leagans, who comes from a charter school in Livermore and also was a teacher-leader in Texas, started January 3, 2017. Khristal Johnson will move to her position as Director of Charter Schools with COE and will work with Mr. Leagans.

Commissioner Rhoads asked about a charter school that has been approved for a Juvenile Hall. Mr. Putney said Legacy is looking at a 6th grade middle school which was approved at the last meeting.

Victim Witness Assistance Center: None.

YWCA Support Services: None.

Announcements/Correspondence: Chair Colunga reminded everyone of the Beyond the Bench Conference, to be held January 27, 2017.

Chair Colunga acknowledged that, for the first time there were fewer than 100 kids both combined at Juvenile Hall and the Ranch. Congratulations to the institutions and to the system's partners.

Old Business: None.

New Business: None.

Adjourn to Executive Session: Chair Colunga adjourned the meeting to Executive Session at 1:27 p.m.

Next Meeting: February 7, 2017, DA Crime Lab Conference Room, 250 W Hedding St., San Jose, CA.

Respectfully submitted,

Barbara Crump