

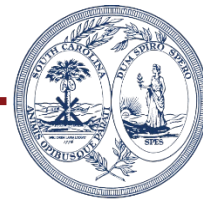


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April 1, 2021

Mr. K. Earle Powell, Director
Legislative Audit Council
1331 Elmwood Avenue, Suite 315
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Dear Mr. Powell:

Thank you for providing the South Carolina Department of Juvenile Justice (DJJ) the opportunity to submit written comments regarding the Legislative Audit Council's (LAC) final draft report. I would like to thank you and your staff for the time dedicated to this audit. The audit process verified areas of improvement DJJ previously identified and reinforces the need for requests to be addressed through the budget process. I was encouraged to note that many of the recommendations in the report were items already identified by DJJ that have been or are in the process of being corrected. My administration has been founded on continuous constructive analysis and embracing improvements in processes and practices so that we can more effectively empower youth for their future. To that end, as shared with LAC (though no reference was included in the report), DJJ has partnered with the Center for Children's Law and Policy (CCLP) to provide technical assistance to DJJ in analyzing data on justice-involved youth, revising policies in critical areas such as use of isolation, facilitating culture change, improving recruitment and retention of DJJ staff, enhancing training for staff in critical areas, enhancing DJJ's incentive-based behavior management system, improving delivery of clinical services, increasing programming for committed youth, and tracking implementation of all reforms. In addition, DJJ was one of five agencies in the country recently awarded a Reducing Isolation Grant (\$748,059) from the US Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP).

With these partnerships in place (and others that will be announced in coming weeks), DJJ is committed to working collaboratively with national experts to update protocols, practices, policies, and training programs to bring organizational change that will positively impact the culture of DJJ, both for youth served by DJJ and for DJJ staff. Serving committed youth in a more restorative manner and developing more robust community-based alternatives aligns directly with our agency's mission. When a youth is rehabilitated, communities are safer. This culture shift will have a significant positive impact on a challenge that our secure facilities have faced for over a decade: officer recruitment and retention. As I have shared with members of the General Assembly and DJJ stakeholders at every opportunity I have had since becoming Director, DJJ's inability to pay correctional officers a competitive salary (in comparison to other state/local law enforcement agencies) means that many DJJ correctional positions remain unfilled and that we experience an unacceptably high turn-over rate. With the increased vibrancy and strength of the Palmetto State's economy over the last several years, state entry-level salaries for correctional staff have failed to keep pace with the private sector (manufacturing and fast-food employers pay several dollars more per hour than state positions). Unfilled correctional and other critical-needs positions have a significant impact on the ability of our secure facilities to function at optimal effectiveness and efficiency. And that is an area where I continue to need the assistance of the General Assembly.

Another area where DJJ needs the assistance of the General Assembly is with overall reform to the juvenile justice system. Data shows that although only 10% of cases referred to DJJ in FY17 involved violent or serious offenses, over two-thirds of DJJ's budget was spent on out-of-home placements for youth. Of the 743 youth who were housed in a secure residential facility or alternative placement setting on any given day in FY17, the majority of these youth were charged with or adjudicated delinquent for a low-level offense.¹ Further, data shows that recidivism outcomes for youth served in an out-of-home placement are poor when compared to youth served in the community.² Overall, this data suggests an over-reliance in South Carolina on residential, out-of-home placements for youth who do not pose a risk to public safety – a practice that comes at a high cost to taxpayers, both in terms of dollars and in increased recidivism rates. To that end, DJJ encourages legislators to give strong consideration to passage of S. 53,

¹ Specifically, only 37% of youth housed in a secure pre-trial detention center were charged with a felony offense, only 38% of all youth committed for a residential evaluation were adjudicated delinquent for a felony offense, and only 28% of youth committed for a determinate or indeterminate sentence were adjudicated delinquent for a felony offense. In fact, 7 of the top 10 commitment "offenses" are a technical violation of probation, youth misconduct that does not rise to the level of a criminal offense.

² A 2015 recidivism study conducted by the Pew Charitable Trusts revealed that South Carolina youth had a re-adjudication/conviction rate of nearly 50% within three years of release from commitment compared with a re-adjudication/conviction rate of 35% within 3 years of release from probation supervision and a 14% adjudication/conviction rate within 3 years of completion of a diversion program.

a bill containing reforms to South Carolina's juvenile justice code that are designed to improve public safety, reduce recidivism, and provide better outcomes for youth and families. The reforms focus costly out-of-home secure confinement on the most serious and high-risk offenders, strengthen community supervision to hold youth accountable, and increase access to effective front-end prevention and intervention services provided to youth and families in their home communities. If we as a state can implement these proven juvenile justice system reform measures, we can make great strides to correct the understaffing problems DJJ faces, save taxpayer dollars, reduce recidivism, and create safer communities.

While DJJ agrees with some conclusions and recommendations of LAC and had already begun to implement improvements independent of LAC, given the 10-page limit imposed by LAC for DJJ to respond to this 178-page report, the remainder of this response will highlight significant areas of disagreement. As part of the draft report process, DJJ provided LAC with over 700 pages of written responses and supporting documentation that identified incorrect factual assertions, failures to consider pertinent information, and faulty and speculative conclusions contained in the report. Despite this, LAC failed to correct the final version of the report accordingly, as more specifically outlined below, which calls into question a number of LAC's findings and recommendations. Unfortunately, the audit still contains numerous instances where LAC simply failed to understand fundamental aspects of DJJ's operations, misstated facts, dismissed the conclusions of trained professionals within their specific areas of expertise in favor of LAC's, and failed to consider information provided by DJJ.

Chapter 2 – Safety and Security: Overall, DJJ notes that many of LAC's criticisms of DJJ's secure facilities are grounded in correctional positions remaining unfilled. DJJ appreciates that LAC acknowledges that DJJ has submitted multiple budget requests asking for increases for front-line correctional officers. While DJJ has been able to maintain minimum coverage in our secure facilities, having officers work extra hours and extra shifts is not sustainable long-term and leads to poor morale and officer burn-out. It also means that correctional staff must remain in coverage throughout their shift with limited time to attend training or assist with tasks outside of direct supervision of youth. Without the ability to offer a competitive salary, DJJ continues to struggle to hire and retain qualified staff which has a domino effect on overall operations.

Regarding national standards, DJJ advised LAC that as of January 17, 2021, the Broad River Road Complex (BRRC) is compliant with the Prison Rape Elimination Act (PREA). In 2019, the Upstate Evaluation Center (UEC) was deemed to be compliant with all PREA standards except for the juvenile/staff ratio. In 2018, the Midlands Evaluation Center (MEC) and Juvenile Detention Center (JDC) missed meeting compliance by two PREA standards related to screening of risk. Since that time, DJJ has implemented in all DJJ facilities the Vulnerability to Victimization and Sexual Aggression Screener, a collaborative tool utilized by clinical, classification, and institutional staff to determine a total risk score for vulnerability and provide a risk score associated with propensity for aggression. Because BRRC met PREA standards utilizing this new risk tool, DJJ is confident that MEC and JDC will meet PREA standards during the next PREA audit. None of this information was included by LAC in the final report.

DJJ explained to LAC that although staffing is a struggle for the reasons noted above, DJJ does meet its internal staffing minimums. When an officer calls in sick or otherwise does not come to work for their scheduled shift, DJJ cannot "force" another employee to come in on his/her day off which may result in management going into coverage. DJJ also informed LAC that non-security staff are not trained to perform security functions and would not be asked to do so. Although, for example, a teacher may escort a youth to another classroom or a social worker may escort a youth to his/her office, this is not considered a "security" function as the youth would not be in mechanical restraints, and the employee is merely walking with the youth. DJJ also advised LAC that the temporary closure of CEC was not solely because of low staffing levels. While staffing was one factor, other factors included: staff recruitment, retraining staff, facility repairs and other improvements to the facility. This temporary closure did not interrupt the youths' clinical, medical, or educational services. When CEC reopened, the capacity was temporarily limited to thirty youth to comply with required staffing ratios. Regarding staffing plans and shift reports, DJJ notified LAC that staffing plans are updated and reviewed yearly by management and the PREA coordinator. Although only paper copies of the shift reports were kept previously, all facility shift reports now are uploaded daily onto a One Drive and are immediately available electronically to upper management and relevant staff. None of this information was included by LAC in the final report.

Regarding Incidents and Investigations, DJJ provided LAC with information and supporting documentation showing that the statement that "incidents at DJJ's secure facilities has more than doubled in recent years" and the related charts created by LAC are factually incorrect. While LAC auditors may have used PbS data supplied by DJJ, PbS does not define reportable events as "incidents." PbS uses categories to define an event, and a reportable event can be categorized into more than one category. Totaling unrelated categories and referring to them collectively as 'recorded incidents,' is a gross misrepresentation of the factual data as single incidents are then counted more than one time. LAC's charts are inaccurate and form the basis of unsupported and faulty conclusions. DJJ advised LAC that the auditors were factually incorrect in reporting that one employee categorizes events, as there are three Division of Investigative Services' employees who categorize Event Reports. The electronic Event Reporting System

reduces delays in Investigative Services receiving event reports, thereby reducing delays in assigning and investigating incidents. LAC also misunderstands the investigative process. All Event Reports alleging negative juvenile behavior are reviewed by Investigative Services and either referred for criminal investigation or returned to management to be handled under the juvenile disciplinary process. The decision to criminally investigate a case is based upon the totality of the circumstances. Just as youth who are not under DJJ's care are not prosecuted criminally for every instance of negative behavior, neither are committed youth. While LAC reports that staff "expressed concern" that DJJ's procedures result in little accountability for juvenile behavior, as the auditors are aware from the recent DOJ report, many security staff improperly utilized isolation in the past. DJJ is implementing measures to reduce both the use and duration of isolation, and it is not uncommon for jurisdictions that embark on reducing isolation initiatives to have staff initially perceive such as a lack of accountability for youth misconduct. Although all of this information and related documentation was provided to LAC, the final report was not corrected.

Regarding the Timeliness of Investigations and Discipline, LAC fails to understand that a criminal investigation and a management review investigation are different and have different standards of proof. DJJ advised LAC that in a criminal investigation, the employee-subject of the investigation cannot constitutionally be compelled to make a statement to the investigator; by contrast, the employee-subject of an administrative inquiry can legally be compelled to make a statement to the investigator. Therefore, if an incident contains a mix of criminal and administrative issues, the criminal investigation must occur first. The Office of Human Resources (OHR) does not recommend disciplinary actions until the investigation is complete, except in exceptional circumstances when an employee has been arrested for criminal conduct on the job. All covered state employees are afforded grievance rights by law, and DJJ must ensure that any disciplinary action taken is administered per policy and in compliance with state and federal regulation/law. There is no nationally accepted timeframe for completion of employment-related investigations, especially when cases could potentially go through both criminal and administrative investigations. DJJ further advised LAC that since 2016, DJJ has hired four Gang Intervention Coordinators, who are responsible to respond to and investigate incidents of gang activity and implement gang intervention programming which target youths who are identified as at-risk of gang involvement. While other programs were explored initially, DJJ recently applied for and received grant funding through OJJDP to acquire and implement a nationally recognized gang resistance evidence-based program through Phoenix/New Freedom program which is currently in process of being purchased for agency-wide implementation. Regarding Referral of Criminal Cases to Solicitors, DJJ informed the LAC that, as of October 2020, DJJ no longer refers criminal cases to solicitors for recommendation of probable cause or opinions as to criminal charges. The Criminal Investigations Administrator makes the determination, based upon probable cause and the youth's age, if the case should result in a warrant for adult charges or a petition in family court. DJJ clarified for LAC that even if a youth indicates to investigators that the youth does not wish to move forward with prosecution, DJJ will still move forward with the investigation and refer the case for prosecution, as appropriate. Despite all this information being provided to LAC, the final report was not corrected.

The LAC incorrectly reports that DJJ did not "adequately prepare for the increase in juveniles from the Raise the Age (RTA)" implementation. DJJ informed LAC that DJJ was well aware of RTA and worked with the General Assembly and juvenile justice stakeholders for years before its implementation. After passage of RTA in 2016, DJJ trained staff throughout the Agency (as well as other juvenile justice stakeholders) on the provisions of the bill and then began intensive recruitment efforts in 2018. RTA was passed in 2016 and provided that the provisions would be implemented in 2019, contingent upon funding. As LAC notes, DJJ submitted budget requests outlining implementation needs associated with RTA, but "[t]hese requests were not funded by the General Assembly." When informed at the last minute that RTA would be implemented without funding, DJJ had no choice but to incorporate the increased number of youth who enter the system into existing services and serve them with available staff. During their audit investigation, LAC did not inquire about DJJ's early efforts regarding RTA; they only asked about implementation, which did not occur until 2019. To suggest that DJJ did nothing regarding RTA prior to June 2019, when that is the only information LAC requested, is disingenuous and inaccurate. Further, a "formal written implementation plan" and intensive re-training for staff was not needed as RTA is a simple concept – it raised the age of youth subject to the Family Court's jurisdiction from 17 to 18. RTA did not change DJJ operations; DJJ served/housed youth aged 17-19 before RTA, so it did not change how security staff operated. Also, DJJ pointed out that the LAC confused the SC Constitutional requirement that juvenile offenders be separated from adult offenders with RTA³ which merely expanded the jurisdiction of the Family Court. DJJ's housing plan has always been, and continues to be, compliant with the SC Constitution as DJJ houses juveniles, not adults. The current process for classifying and housing youth encompasses all youth committed to DJJ under Family Court orders, regardless of age. DJJ further informed LAC that DJJ does not "rely on" the Youth in Transition (YIT) program to address RTA youth. The YIT program is an enhancement of the New Beginnings program which was implemented in 2018 to serve older youth who had already obtained their diploma or GED, but who were not eligible for parole, so that these older youth had targeted and structured daily activities and programming since they were no longer in an educational setting. DJJ also informed LAC that the auditors misinterpreted the data provided by DJJ

³ It is also noted that the SC Constitutional provision referenced by LAC mandates action by the General Assembly, not DJJ.

regarding the impact of RTA. Graph 2.12 is misleading and should not be relied upon without the data source, actual context, and a true comparison. At face value, these numbers may suggest there has been an increase in admissions youth in long term commitment, however, the impact of RTA has occurred thus far primarily on the front end of the system, i.e., when a juvenile is charged. The auditors over-identify RTA youth because they only looked at the age of the youth and did not take into account that many of the youth would have entered the juvenile justice system prior to the implementation of RTA.⁴ Said simply, not every youth who is 17 years old or older came to DJJ as a result of RTA. Further, the auditors acknowledge in the report that youth can be admitted more than once to a facility, or to more than one facility, over a given period of time, which DJJ pointed out means that the chart counts one juvenile for multiple commitments as that juvenile proceeded through the system. Despite all of this information being provided to LAC, corrections were not made to the final report.

Chapter 3 – Human Resources: Regarding Employee Compensation, DJJ appreciates LAC acknowledging that “DJJ has requested additional funding in its annual budget each year since FY 17-18 to support base salary increases for juvenile correctional officers and community specialists” and that these “requests have gone unfunded or partially funded each year.” However, just because the General Assembly has not funded increases for these large job classes does not mean that DJJ should deny appropriate salary increases to other job classes when such can be funded within DJJ’s existing budget. In particular, LAC’s suggestion that DJJ should have used the \$494,167 in increases to provide JCOI’s with a 14% increase is fundamentally flawed. LAC provides no evidence to show that the increases as provided were unwarranted and fails to consider the practical implications that doing so would mean entry-level JCOs would have a higher salary than correctional officers higher in their chain-of-command. Additionally, DJJ shared with LAC that an agency-wide salary study was completed in 2019 that showed DJJ had 39 job class codes that were underpaid when compared to the statewide average salaries for those job class codes, with a number of the job classes that were underpaid being managers who were more underpaid compared to their counterparts than JCOs and Community Specialists. DJJ also requested that LAC remove the statement that DJJ “should...prioritize[e] salary increases for front-line employees” as it implies incorrectly that DJJ does not do so already, as clearly demonstrated by repeated budget requests for increases for these front-line employees, not other job classifications, even though some of these other non-front-line job classifications are arguably more underpaid. With special assignment pay, education-related increases, and sign-on and referral bonuses, DJJ has done what it can within existing funding streams to increase compensation for JCOs. As to dual employment, LAC is incorrect in saying that “DJJ is unable to verify whether its policy on dual employment is being enforced” and that DJJ “require[s] information only on net hours worked” for dual employees. The Education Division requires dual employees performing tutoring services to complete time sheets indicating specific dates/times worked, youth tutored, and subject(s) covered, and these time sheets are reviewed by management to verify that hours worked do not overlap with regular working hours. Despite all this information and related documentation being provided to LAC, the final report was not corrected.

As to DJJ Supervisors, prior to LAC involvement, DJJ identified the EPMS process as an opportunity for improvement, and a revised EPMS policy was drafted that identifies a universal EPMS review date for agency employees of March 2nd of each year. This revised policy was submitted to the Department of Administration’s Division of State Human Resources (DSHR) for review and is currently in DJJ’s internal policy review/approval process. Until such time as the universal date is implemented, DJJ’s Office of Human Resources (OHR) will be providing oversight to compliance with EPMS review dates and providing reminder information to managers quarterly. Further, it is not clear to DJJ why LAC would expect to find a formal EPMS document in an EMT member’s file when, as LAC acknowledges, such is not required by state law/regulation/agency policy. DJJ also pointed out that an EPMS is not the only method available to the Director to assess performance. DJJ’s Director meets regularly with Deputy Directors (e.g. weekly EMT meetings and monthly one-on-one meetings as well as additional topic-specific meetings as needed) to assess progress and performance and provide feedback and expectations. In addition, LAC has incorrect information regarding Deputy Directors. DJJ did not have two Deputies who “were already DJJ employees who moved into temporary positions before being promoted into new positions.” According to DOA guidance and state regulations, an Agency Director has broad discretion in hiring Deputy Directors, who occupy at-will, non-covered positions. As contemplated by DOA’s guidance, there are some situations where recruiting for a Deputy position may be needed, but that is “not normally” the case. DJJ asserts that observing a person performing duties on a temporary or interim basis is a valid and effective indicator/predictor of ability to perform the duties in a more permanent capacity. Despite all this information and related documentation being provided to LAC, the final report was not corrected.

DJJ disagrees with LAC’s conclusions regarding the Employee Progressive Discipline Policy. This policy has been reviewed and approved by DSHR. LAC’s suggestion to dismiss the expertise of the professionals at DSHR who have years of experience in reviewing agency progressive discipline policies in favor of LAC’s opinion is flawed. The report shows that LAC fails to understand

⁴ The majority of youth ages 17-19 currently committed to DJJ would still represent those whose case dispositions were handled prior to implementation of RTA. This means that some of those juveniles were 15-16 years old when they were charged but were 17 (or turned 17) when they were committed to DJJ (after they went to court and were sentenced).

that two employees may be disciplined differently for similar infractions based on a proper exercise of management discretion and evaluation of the employees' history of prior discipline, years of service, and other relevant factors. DJJ also advised LAC that it is factually incorrect to state that employees who are suspended pending investigation are "unable to access any recourse until the investigation is completed." Pursuant to state regulation and agency policy, employees can appeal to DSHR independent of receiving a final agency decision. Again, DJJ's Discipline and Grievance policies were reviewed and approved by DSHR, and it would be inappropriate for the opinion of LAC regarding policy provisions to be substituted for the sound judgment of the experts in this field. Although this information and related documentation was provided, LAC did not correct the final report.

The LAC report does not paint an accurate picture of DJJ's Recruitment and Retention efforts.⁵ LAC also is factually incorrect in stating that "DJJ has not taken full advantage of the rapid hire event toolkit developed by [DSHR]." To the contrary, DSHR has congratulated DJJ's recruitment efforts and encouraged other agencies to follow our example. Regarding Proviso 117.65, LAC fails to realize, or at least acknowledge, that additional funding was not tied to adoption of this Proviso. DJJ has been able to implement lump-sum sign-on bonuses and employee referral bonuses within existing funding but does not have current budget to offer loan repayments or tuition assistance. Regarding Training Costs, DJJ explained to LAC that this statute is of limited benefit to DJJ because it does not apply to the standard Class II JCO, which is the majority of DJJ's security workforce. And while the Proviso may apply to a certified Class I LEO (Public Safety Officer or Criminal Investigator), DJJ often is not made aware of what job an employee is taking when he/she resigns. DJJ advised that LAC's review of the Hiring Process is not timely so is no longer valid. DJJ informed LAC that OHR transitioned from a paper-based hiring process to an automated system (DJJ Employment Center Portal), effective September 1, 2020, which has streamlined the hiring process. DJJ also disagrees with LAC's assertion that background checks should take place "when HR screens applicants."⁶ Despite being provided with this information and supporting documentation, LAC did not correct the final report.

DJJ realizes that JCOs are paid less on an entry-level than SCDC's COs and most neighboring states; hence, DJJ's repeated requests to the General Assembly for security staff salary increases and for salary equity across agencies for similar positions. It is not clear why LAC believes that DJJ's training program for new hires is deficient in comparison to neighboring states as LAC offers no support for this assertion and lacks the expertise to make such a conclusion. DJJ's current training curriculum for correctional staff (138.5 hours of training completed within 6 months of hire) was developed after years of research, which included a review of training content offered at comparable agencies in other jurisdictions, and underwent a rigorous review as part of the approval process by the Criminal Justice Academy. DJJ's curriculum developers also monitor best practices in juvenile justice and update curriculum accordingly. One example provided to LAC was that DJJ recently expanded its mental health training components. Several DJJ staff completed facilitator training in the 'Mental Health Training for Juvenile Justice' program with the National Center for Youth Opportunity and Justice.⁷ None of this information was included/corrected in LAC's final report.

The data provided to LAC concerning Job Fairs from 2017-2020 shows that DJJ has been vigilant in its attempts to recruit for existing unfilled FTEs in all critical-needs positions. While the LAC seems focused on the number/percentage hired versus the number of applicants ("only 100 new employees" out of 879 applicants), the auditors fail to account for the number of available positions. The point of a job fair is to develop a diverse pool of applicants for each position so that the hiring manager can select the most qualified person for the job. If the LAC's expectation is that 100% of applicants will be hired, they fail to understand the realities of recruitment and hiring. An analysis of NEOGOV data shows that the percentage of applicants who failed to get hired was greater for persons who applied only on NEOGOV than those who attended a job fair during the same time period. LAC also appears to misunderstand the data for hiring events hosted by DJJ versus hiring events DJJ attended hosted by other entities. Further, LAC is unfairly critical of DJJ holding job fairs at colleges/universities as this conclusion is based on the false assumption that DJJ only recruits for JCO positions at job fairs. Rather, DJJ recruits for all critical-needs positions, to include nursing, clinical, and

⁵ DJJ shared with LAC that new functionality was added to the agency website to increase the ease of looking for jobs and applying, a series of eight recruitment videos were created, newly designed recruitment fair items were provided, hiring and referral bonus were implemented, drive-thru job fairs were hosted at multiple locations, use of contingent offer letters were implemented, partnerships with Goodwill Job Connection Centers and SCWorks were established, social media recruitment efforts were intensified, and DSHR was consulted to review posting authorizations to enhance the wording and how postings were categorized to attract individuals.

⁶ The cost of the DSS Central Registry check is \$8 per application, so it would be fiscally irresponsible for DJJ to process all applicants on the eligibility list that was provided to the hiring manager prior to selection. The best practice is for Hiring Managers to request background checks on the top 2-3 candidates from the interview process so that if there was a negative result as to the top candidate, the Hiring Manager could consider moving forward to hire one of the other top candidates, as appropriate.

⁷ This curriculum provides juvenile probation, detention, and corrections staff with critical information to improve their knowledge and skills related to working with and supervising youth and is designed to increase knowledge of behavior health and trauma needs of youth, while increasing skills and capacity to use trauma-informed and therapeutic approaches in their daily interactions with youth. The use of these skills will help to prevent crisis situations and effectively intervene and de-escalate youth when these situations do occur.

community specialists, positions that require advanced degrees. Regarding Retirement System Eligibility, DJJ has appropriately, and consistent with state law, classified all employees in a full time FTE position in the Police Officers Retirement System (PORS). Having all DJJ employees in PORS provides consistency because at any time, any employee may go behind the fence at one of DJJ's secure facilities to train, attend meetings, serve on boards and panels, or perform other job-related tasks which may result in being in direct contact with juveniles. DJJ has consulted with PEBA Retirement to discuss PORS eligibility regarding DJJ exclusively, since the unique nature of DJJ's operations cannot be compared to other agencies. Despite clarification and supporting documentation being provided, LAC did not correct the final report.

Chapter 4 – Medical Care and Educational Services for Juveniles: DJJ disagrees with LAC's conclusion that youth are not provided timely, appropriate medical care. It appears that the auditors who reviewed these documents made overall assumptions not grounded in knowledge of the juvenile justice, mental health, or medical field. It is questionable as to how conclusions can be drawn about what is considered an "appropriate timeframe" for medical attention without the auditor having the education and training of a medical professional in order to do so knowledgeably. While DJJ acknowledges that staffing issues can lead to transportation issues, LAC was provided with extensive information and documentation regarding timely, appropriate medical care. DJJ also clarified for LAC that rescheduling a routine medical appointment does not mean that the medical care provided was not appropriate. If a medical emergency arises to the level that a youth must immediately be sent to the emergency room, an ambulance is called for transport. Most of the incidents pointed out in the LAC report were isolated incidents which may or may not have been related to transportation. Additionally, DJJ youth, like all private citizens, have the option to refuse medical care that is not for a life-threatening issue. DJJ cannot force medical treatment as youth have the right to self-determination in their medical care. Further, youth medical appointments are not "routinely" missed. Clearly, circumstances happen beyond the control of DJJ staff that may affect a youth's ability to make an appointment, such as: youth who went to court and were released or alternatively placed which changed their appointment for medical care; youth refusal of medical care; outside doctors rescheduling appointments as a result of the doctor's own schedules; rearranged appointments due to campus events or a need for a youth to be present for such as GED testing. Any reason why someone in the community might cancel and reschedule an appointment applies to DJJ youth as well. DJJ requested that event numbers of these supposed missed appointments be provided so that the reason for a missed appointment could be confirmed, rather than LAC attributing an unconfirmed reason, but such was not provided. For reasons unknown to DJJ, none of this information was corrected by LAC in the final version of the report.

In response to LAC's implication that DJJ staff was inadequately trained in certain areas, DJJ provided detailed documentation to LAC regarding staff training on human trafficking, mental health issues, and prevention of sexual assaults. All DJJ staff receive training on the impact of trauma during New Employee Orientation and in other capacities facilitated by DJJ. In addition, security staff, because they work with youth on a day to day basis, participate in mental health training as a part of basic training. As mentioned above, DJJ has enhanced this training over the past year by implementing Mental Health Training--Juvenile Justice Certification through the National Center for Youth Opportunity and Justice. Further, DJJ Policy related to mental health emergencies has been revised, strengthened, and expanded in recent years, resulting in the use of evidence-based screening for suicidality, heightened protocols for consistent monitoring, and enhanced training for both clinical and security staff in evidence-based and best practice suicide prevention curricula. DJJ has highly trained clinical staff to address "mental illness and triggers," employing eighty-nine Clinicians and six board certified child Psychiatrists across the State. Despite this information and supporting documentation being provided, LAC failed to correct the final report.

DJJ explained to LAC that the Mediat system is an electronic health record and that its purpose is to record confidential patient and medical care information. It is inappropriate for non-medical information such as transportation issues to be documented in this electronic medical record. DJJ further explained that Mediat can identify youth by their Last Name, Juvenile Identification Number (JID) from JJMS, date of birth, or a unique Mediat account number, and that any difficulty in identifying youth from reports was not a system shortcoming but user error. DJJ provided LAC with a copy of Policy 604 which states that a youth must refuse medical care within the presence of medical staff. A copy of the refusal form is uploaded into Mediat. DJJ clarified that nursing staff is not "forced" to go to the living units to administer medications. The requirement for nurses to travel to living units to administer medications is not a function of staffing shortages but is the result of the layout of the Broad River Road Complex. Since living units are spread out, it is not logistically possible for all youth to be brought to the Willow Lane Infirmary for medication. Regarding human trafficking, DJJ provided training records to LAC demonstrating the variety and scope of human trafficking awareness training opportunities available to DJJ staff. DJJ also explained to LAC that the General Assembly, through legislative changes to the definition of abuse and neglect, has tasked the SC Department of Social Services with serving minor victims of trafficking and that state law further mandates the decriminalization of human trafficking victims. DJJ advised LAC that while some of the youth served by DJJ are victims of trafficking, it would be inappropriate for the new group home for seriously mentally ill youth to also serve trafficking victims as these are two distinct populations of youth with significantly differing treatment needs. Despite all of this information being provided to LAC, the final report was not corrected.

Regarding Educational Services, DJJ provided the LAC with information that shows that, although the number of GED candidates are down, more youth are on track towards a diploma, which is a positive outcome. DJJ also pointed out to LAC that DJJ does everything within our power to timely request records on new students, but that DJJ does not have control over other district's response time to records requests. Regarding transportation issues and youth being in isolation being occasional impediments to GED testing, DJJ shared that the calendar for testing was adjusted to reduce transportation issues that may arise and that agency-wide initiatives to reduce use of isolation will positively impact youth availability for testing. DJJ further shared with LAC that it does review the educational outcomes of youth and report such to the State Department of Education.⁸ Although one person LAC spoke with was not aware of this tracking, that does not mean it does not happen. Again, LAC declined to correct the final report.

Chapter 5 – Staff Training: The LAC's calculation of how many JDC officers did not complete the CJA training within one year of hire is flawed in that it includes data prior to the 2017 LAC audit. DJJ began sending JDC officers to CJA in 2015. Since most staff at JDC in 2015 had been working for DJJ for over a year, it is understandable that a large number of officers would have completed their CJA Basic Training beyond their one-year hire date because they were not required to attend CJA at the time they were originally hired. According to Agency records, as of March 31, 2021, there are nine JDC officers who have not met their one-year CJA certification requirement. Of these, some are not able to attend CJA training because of medical reasons (pregnancy, workers compensation, etc.). DJJ provided LAC with documentation regarding CJA attendance of the fifty-seven JDC staff hired 2017 through December 31, 2019.⁹ Of those 57 officers, 22 separated or transferred from JDC before their one-year date of hire. Therefore, those 22 officers should not be included in the calculation of determining CJA compliance. Of the remaining 35 officers still employed at one year from the date of hire, 8 (22.8%) came to DJJ already with a CJA Class II certification, and 17 (48.5%) were certified by their one-year date of hire. This results in a 71.3% rate of compliance. There are various reasons, not under the control of DJJ, why the remaining 10 (28.2%) were not certified during that timeframe, such as military leave, medical reasons, and COVID-related cancellations/limitations of training classes imposed by CJA. DJJ provided LAC with information and documentation which evidences that its training curriculum for officers at JDC does adequately prepare officers for the environment. JDC officers specifically attend both CJA and internal training and while JDC officers are not permitted to use techniques taught at CJA that are intended for use on adults,¹⁰ they are authorized to use techniques taught through the Handle With Care (HWC)¹¹ program which is tailored to youth. All other officers attend internal basic training and are taught HWC techniques. Further, DJJ provided documentation to LAC regarding the newly implemented Field Training Officer (FTO) program which was implemented in response to the challenges of security staff having to travel to Columbia for training. FTOs provide a variety of trainings on-site at facilities. DJJ also offers a variety of its training on a web-based platform. Despite being provided with this information and supporting documentation, LAC failed to correct the final report.

Chapter 6 – Financial Issues: DJJ pointed out to LAC that although state law does not mandate that DJJ have an "internal audit" function, DJJ has created a team of Quality and Compliance (QC) professionals to perform internal audit functions. The structural organization of the QC team is to report to the Inspector General, who leads the Division of Investigative Services and reports directly to DJJ's Executive Director. DJJ explained to LAC that DJJ adheres to the Institute of Internal Auditors (IIA) Professional Practice Standards which state that "[t]he chief audit executive must report to a level within the organization that allows the internal audit activity to fulfill its responsibilities." The LAC mistakenly interprets this to mean direct supervision even though the IIA Standards specifically describe the internal auditor "functionally" not directly reporting to the Board (or in DJJ's case, the Executive Director). DJJ has not stated to LAC that it intends to "abandon" the IIA Standards. DJJ officials told LAC they intend to follow agency policy, which as LAC is aware, includes adherence to IIA Standards. Despite being provided with this information and supporting documentation, LAC did not correct the final report.

⁸ DJJ provided LAC with information regarding two DJJ positions that are tasked with tracking the outcomes of youth. DJJ also shared challenges associated with the legal limitations of getting educational records when youth are no longer subject to DJJ parole supervision. In addition, DJJ pointed out that the Council of State Governments report that LAC references is of limited value since the report itself states "we cannot conclude from this data that system involvement caused a decline in youth attendance given the myriad factors that impact school attendance overall and from one year to the next."

⁹ DJJ informed LAC that it may not always have two officers to send to CJA every month, for scheduling reasons such as all applicable officers were already scheduled for following months. This is a matter of scheduling, not any kind of failure on DJJ's part. In addition, DJJ informed LAC that its records do not reflect that there is an employee who has not completed training as alleged in bullet point 6 on page 91. LAC did not provide DJJ with further detail so that DJJ could confirm that employee's status.

¹⁰ While Pressure Point Control Tactics (PPCT) taught at CJA may be appropriate when used on adults or in certain circumstances in the community when law enforcement interacts with a youth, these techniques are not appropriate for JCOs to use with the youth population in secure confinement. These techniques are not a best-practice in youth correctional facilities, and implementation of such at DJJ would be contrary to the guidance DJJ has received from the Department of Justice.

¹¹ HWC is a crisis intervention and behavior management training program that specializes in safely managing disruptive youth behavior.

As to late vendor payments, DJJ has identified that many of the keying errors (transactions keyed with wrong invoice date) were entered by former Accounts Payable employees. The Accounts Payable staff are under new supervision, and management continues to make every effort to ensure dates are entered into the SCEIS accounting system correctly. The LAC analysis fails to acknowledge that many late vendor payments are not due to DJJ error/delay but are the result of vendors submitting incomplete or duplicate invoices, invoices for work that was beyond the scope of their authorization, invoices with an incorrect billing rate, and/or invoices referencing incorrect or expired purchase orders. DJJ appreciates LAC acknowledging that LAC “did not identify unallowable, direct expenditures” when reviewing DJJ’s use of Title I funds. DJJ acknowledges that an employee inadvertently made an incorrect entry, realized the error and thought she had reversed the document, but instead entered it a second time. DJJ receives multiple audits throughout the year (e.g., the SC State Auditor’s Office and SC Department of Education) and adheres to the Comptroller General’s Office year end process. This is the kind of accidental entry that would be identified in one of these regular audits. Regarding Other Educational Grants, DJJ will work with SDE to reimburse for the unintentional duplicate entry. These human errors were identified by DJJ staff and represent an accounting mistake, not a “misuse” of grant funds. These issues, with supporting documentation, were shared with LAC, but none of this information is contained in the final report.

DJJ disputes LAC’s conclusions that “[j]uveniles damaging employee vehicles is a persistent problem” and that “DJJ does not adequately mitigate the potential for damaged, destroyed, or stolen property.” According to LAC’s own analysis, there were five incidents of property damage (three vehicles and two eyeglasses) over the last three fiscal years. DJJ asserts that having five incidents of property damage within a three-year period, when youth have potential to come into contact with approximately 1,300 employees’ personal property at 48 separate DJJ facility/office locations, clearly demonstrates that property damage is not a frequent occurrence and that DJJ’s mitigation strategies are effective. DJJ also pointed out to LAC that when LAC requested a “List of claims made on insurance policies relating to damage of personal property owned by DJJ staff,” there was no date range specified, so DJJ provided information for claims for FY 19-20. The other two claims LAC references are from prior FYs. It is not that “DJJ’s information omits two claims” – it is that LAC never asked for this information. The misplaced comparison to 2016 disproves the point LAC is trying to make regarding mitigation strategies. Clearly, having over \$22,000 dollars in damage to multiple employee vehicles in just one incident in 2016 compared to less than \$6,000 in damage to employee vehicles over the following three-year period is a significant improvement. Rather than demonstrating that “it is a persistent problem” caused by “negligently-supervised juveniles,” this comparison shows that DJJ’s supervision of youth is appropriate and that mitigation strategies are working. Despite being provided with this information and supporting documentation, LAC failed to make corrections to these flawed conclusions in the final report.

LAC overstates the level of risk represented by the segregation of duties in DJJ’s Office of Fiscal Affairs (OFA). DJJ informed LAC that the report was factually incorrect in describing the number of Mitigating Controls acknowledged by SCEIS (there are five, not eight). DJJ also pointed out that the employees with the risk are 3rd and 4th in line to perform the task and only assigned these roles in order to have a back-up in the event of an extended absence of the primary person to perform the task, a practice recommended by SCEIS and LAC. In the ordinary course of business, the risk is not present. DJJ provided LAC with the perspective that the person with 2 of these mitigating risks have performed the task once each in a span of 3 years. DJJ provided documentation to LAC showing reorganization within OFA that realigned duties of staff as well as written procedures to review and audit SCEIS role assignments. However, none of this information was corrected by LAC in the final report.

Regarding carry forward funds, DJJ brought to LAC’s attention that the report inappropriately combines unspent agency general funds, agency carry forward funds, and legislatively-restricted “special” funds into one lump sum, and that the report incorrectly states that DJJ had “\$8.8 million [of] unspent general fund appropriations” in FY 19-20. DJJ provided LAC with documentation showing that DJJ had \$2,640,212.30 in “unspent general fund appropriations” with the remainder being carry forward funding from FY 18-19 that was not able to be spent in FY 19-20 due to complications associated with the COVID-19 pandemic. DJJ does utilize existing funds to support the agency needs, as appropriate and allowable by state law, and minimizes its end-of-year carry forward funds. Plans were in progress during FY 19-20 to utilize the FY 18-19 carry-forward funds as authorized. However, the global pandemic brought many of these projects to a halt. DJJ also advised LAC that I instructed my management team to be conservative in spending after agencies were advised by state officials to prepare for up to 10% budget cuts for FY 2021. By Executive Memorandum dated August 14, 2020, I took proactive measures and put a temporary hiring moratorium in place for non-critical needs positions, which was lifted in October 2020 after the Continuing Resolution was approved and returned agencies to FY 2020 spending levels. DJJ also informed LAC that Table 6.4 inappropriately combines multiple types of legislatively allowable/restricted carry forward and that it was misleading to imply that DJJ has the unrestricted ability to utilize these funds. Further, DJJ shared with LAC that Table 6.5 references the wrong FY and is an incomplete listing of carry-forward utilization plans. Finally, DJJ questioned the appropriateness of LAC suggesting that DJJ pay for salary increases or hire staff with carry forward funds. DJJ

pointed out that it would be fiscally irresponsible for DJJ to fund such with carry-forward dollars as those funds are not guaranteed or reoccurring. LAC failed to correct any of this information in the final report.

Chapter 7 – Follow Up on 2017 LAC Recommendations: DJJ provided documentation and information regarding the status of the LAC’s 2017 recommendations which indicates that the Agency has worked diligently, from the onset, to operationalize and incorporate all accepted recommendations into practice and that DJJ has implemented 96% of the 68 accepted recommendations. For reasons unknown to DJJ, the LAC is holding the Agency responsible for implementing recommendations that it assigned to other entities. Specifically, recommendations 14, 18, 42, 43, 44 and 58, were directed to other entities, or determined to be better suited to other agencies. These recommendations were not accepted by DJJ and are beyond DJJ’s ability to implement. Accordingly, these recommendations are improperly reflected by LAC in the implementation percentage rate, resulting in inaccurate calculations and conclusions. DJJ also pointed out to LAC that because these recommendations were issued nearly four years ago and under a different administration, some of the processes have evolved over time to better align with present-day operations. In Spring 2019, DJJ’s Quality Assurance (QA) team was tasked with reviewing the status of the recommendations. QA found that 96% of the recommendations were complete and that only two recommendations, 15 and 38, were pending completion. The below chart offers a few examples of the LAC’s failure to demonstrate an unbiased, reasonable assessment of the implementation status of its 2017 Recommendations. As previously indicated, the LAC has failed to correct inaccuracies within its findings. Even though supporting documents and/or explanations have been provided contradicting its claims, for reasons unknown to DJJ, the LAC remains committed to its false narrative.

Rec #	DJJ Response
2	DJJ has incorporated numerous components of CJA trainings into the JCO training curriculum and has deemed this item fully implemented. As previously indicated, DJJ utilizes the HWC training program, which CJA has approved as part of the curriculum for juvenile correctional officers. While this training does not utilize pressure point control, it does contain defensive countermeasures (personal defense techniques), primary restraint techniques and take downs, use of handcuffs and other mechanical restraints, and techniques for protection against use of various weapons.
3	The LAC inaccurately included JDC officers who were already hired and working when the requirement to attend CJA was implemented in the total of JDC officers who had not attended CJA training within their one year of hire. As indicated above, JDC officers were not required to attend CJA training until 2015; therefore, there are numerous officers who were already hired and working well before 2015 so were already beyond their one-year date of hire when that requirement was implemented. According to DJJ records, as of March 31, 2021, there are nine JDC officers who have not met there one-year CJA certification requirement. Some who not able to attend CJA training because of medical reasons (pregnancy, workers compensation, etc.). To include these officers in a count of staff who are delinquent in attending training is inaccurate and misleading.
4 & 11	Both recommendations pertain to MOAs with various law enforcement entities. A MOA with SLED is not necessary for the response to an incident at a facility as SLED would respond as necessary to a call for assistance by DJJ Public Safety, just as SLED does to any other law enforcement agency in South Carolina. A MOA with SCDC also would be inappropriate and could create potential liability for DJJ to allow adult correctional officers who are not trained in dealing with minors to handle such incidents. SCDC officers, experienced in dealing with adults and untrained in dealing with youth, may respond with greater force and tactics than would be acceptable in a juvenile justice environment.
10	The DJJ Police Department was, in fact, disbanded and reclassified as DJJ Public Safety in 2017. Careful consideration was given to the second part of this recommendation which suggested that the former police officers be reclassified as supervisory juvenile correctional officers. However, the Agency opted to reclassify this staff as Public Safety Officers as they provide, among other functions, an extra layer of support to all secure hardware facilities, assistance with secured transports of JDC youth, and supervision for interstate compact transports.
14	DJJ did not accept this recommendation given that PREA documentation, as required by the U.S. Department of Justice, is submitted to the Governor’s Office and is published on the Agency’s public website.
15	DJJ clarified that the 2016 Security Audit yielded 112 recommendations, of which, the Agency did not accept 15 of the recommendations. As stated above, the agency has worked diligently, from the onset, to operationalize and incorporate all accepted recommendations into practice, and while not fully implemented, most of the accepted recommendations have been implemented.
16	DJJ deemed this recommendation unfeasible, and although not accepted, the objective was obtained with the approval of DOA.
18	DJJ did not accept this recommendation. While the Agency has considered selling the underutilized property on Shivers Road as recommended, the Department of Administration is responsible for the property of cabinet agencies, so this recommendation is more appropriate for DOA.
19&20	All security related policies are reviewed and updated every two years. Liaisons from the Institutional Services Division work with DJJ’s Policy Management team to ensure that policies are tracked and updated. Moreover, DJJ established a uniform standard operating procedures process that is monitored by Quality Assurance. All facility standard operating procedures are analyzed and evaluated based on this process.
21	Security policies and procedures are tested annually. DJJ employs a full-time Safety and Compliance Specialist who is responsible for the reviewing, facilitating and testing of all security practices within each secure facility, scheduling and conducting safety training, participating in the safety and environmental orientation for new hires, developing and maintaining accident prevention systems, acting as liaison with outside organizations, devising methods to evaluate safety programs, and conducting evaluations of DJJ buildings.
24	The Office of Human Resources (OHR) analyzes job fairs to determine which locations are likely to generate the most hires. This strategy, in addition to the hiring of two recruitment counselors, is used to attract applicants for specific critical needs positions.

26, 27, 28, 33, & 34	Processes are in place to address the LAC's finding as evidenced by OHR's Standard Operating Procedures (SOP), which were developed in 2019, and by the Classification and Compensation SOP. The roster containing employees with a salary of \$0.00 is a timing anomaly, not a DJJ issue, relating to employees who had transferred from another state agency and their files had not been transferred in SCEIS to DJJ as of the date the roster was run. OHR could have clarified this with the LAC auditors had they inquired.
29, 30, & 31	Since 2018, DJJ does calculate and use the turnover rate. However, the formula the LAC recommended to determine the turnover rate is flawed and would not provide an accurate turnover rate. DJJ utilizes a more accurate turnover rate calculation provided by the Society for Human Resources Management. DJJ uses turnover information to target critical needs areas, and additionally uses healthcare employee recruitment and retention program guidelines, advanced degree increases, sign-on bonuses, and referral bonuses to attract candidates and reduce the turnover. OHR utilizes the Monthly Batch reporting to ensure employee data is accurate. DJJ managers are provided reports generated from SCEIS as needed to ensure that their employee data is accurate.
37	DJJ is committed to accuracy in the recording of financial transactions. While every effort is made to ensure that accounting data is entered into the SCEIS accounting system accurately, keying or transactional errors are not completely preventable as human errors occur. Staff spend 99%-100% of their day performing data entry. On average, the team enters 15,000-20,000 transactions in a given year. Given this level of volume, errors will occur. To find 15 errors in a specific set of data is less than 2 tenths of 1% of all data entered.
38	All issues that were outlined in the previous audits (LAC, IT, SAO) have been corrected. DJJ considers the Office of the State Auditor (SAO) as independent. The Fiscal Affairs team audits one cost center per month by physically traveling to the facility and documenting every asset, beginning September of 2019. The Assets team also has worked with SCEIS to clean up decades old incorrect data, and the asset data is correct on our books (i.e. SCEIS). DJJ continues to follow up with DOA's Real Property Services Division regarding their completion of the load of the reconciled assets into their system.
42, 43, & 44	DJJ did not accept these recommendations as they are more appropriately addressed to the General Assembly. DJJ cannot be held accountable for implementing a recommendation that is beyond its control and better directed towards an external entity.
45	The South Carolina Board of Juvenile Board is its own state entity with a separate organizational unit from DJJ
49	DJJ provided the LAC with an updated teacher certification roster which reflects both the date and state of teachers' certification. However, the LAC refuses to consider the recommendation fully implemented.
51	The LAC's own report states that the practice of conducting unannounced visits has been implemented; therefore, it is inexplicable as to why the LAC is still deeming this recommendation as only partially implemented.
55	DJJ has taken the necessary steps to address this recommendation by hiring four Case Management Monitors in May 2020 to assist with oversight of case management and the statewide audit function. The audit team is currently being trained to identify policy violations and to specifically identify if the problem is a contact issue or clerical issue.
56	The Agency Director has access to data referred to in this recommendation at any time through the Agency's Information and Data Hub which went live in February 2019. Therefore, emailing the Director is unnecessary.
57	DJJ has taken the necessary steps to address the issues that necessitated this recommendation. All the county offices determined to have severe deficiencies were issued corrective action plans and were given sixty-days to address deficiencies.
62	The current Interim Deputy Director for the Division of Community Services is committed to establishing a uniform approach to addressing the issue of languishing cases. While the scheduling cases for court is the sole responsibility of the Solicitor's Office, each county has a different process for following up on "languishing" cases. DJJ is working to create a statewide process to address this issue.
64	This has been fully implemented. PbS continues to work in partnership with all facilities and leadership teams across DJJ to implement data-driven continuous improvement processes by conducting weekly meetings with facility administrators and monthly multi-disciplinary team meetings where incidents are discussed, by developing plans of actions, and by presenting to the Executive Management Team on a monthly basis. DJJ utilizes PbS data to not only analyze trends but make programmatic changes to include staff training enhancements.
70	This has been fully implemented. On September 24, 2019, and more recently on March 4, 2021, DJJ provided the LAC with a copy of the Juvenile Grievance Process Policy, which mandates that the community-based facilities and programs fax or email Juvenile Grievance Forms.

DJJ is empowering our youth for the future, and I would like to thank the LAC again for your effort to identify areas where DJJ can improve as we continue to enhance services provided to youth and communities across South Carolina. While there are several areas of disagreement with respect to information presented in this report, DJJ certainly can agree that self-review and analysis are beneficial endeavors. We have implemented, or are in the process of implementing, many improvements that will positively impact the juvenile justice system in South Carolina for many years to come. DJJ is committed to continuing these improvements, including a number of those recommended by LAC, and will defer to the General Assembly for guidance with regard to recommendations that may require additional funding or legislative authorization.

Sincerely,



Freddie B. Pough
Executive Director