Balanced and Restorative Justice: A Pathway to Rehabilitation

Angela W. Flowers, LMSW

South Carolina Department of Juvenile Justice

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INTRODUCTION:

"The Department of Juvenile Justice (DJJ) administers South Carolina’s juvenile justice system at the state and local levels. This cabinet agency is responsible for providing rehabilitation and custodial care for juvenile offenders who are incarcerated or on probation or parole for a criminal or status offense. Headed by Margaret H. Barber, DJJ had 1495 permanent employees during FY 12-13. The agency operates 43 county offices servicing all 46 counties. Custodial care is provided in seven hardware secure facilities primarily located in Columbia. Two of the facilities are located in Ridgeville and Union.

DJJ’s guiding principles are restorative justice and treatment in the least restrictive setting. Restorative justice places equal emphasis on accountability to victims, restoration of harmony in communities where crime has caused harm, and the development of pro-social skills in offenders to prevent re-offending. The least restrictive principle calls for juvenile offenders to be treated in the least restrictive setting that is commensurate with public safety. Restorative justice is in alignment with DJJ’s statutory mandates, which include sanctions and services for offenders, and consultation/information sharing with victims as decisions are made about delinquency cases."¹ (South Carolina Department of Juvenile Justice Accountability Report 2012-2013) Elements of the least restrictive environment principle and restorative justice are embedded within DJJ’s mission and vision.

¹ South Carolina Department of Juvenile Justice Accountability Report 2012-2013
Mission:

*It is the mission of the South Carolina Department of Juvenile Justice to protect the public and reclaim juveniles through prevention, community services, education, and rehabilitative services in the least restrictive environment.*

Vision:

*DJJ will fuse its community and institutional resources to create a seamless continuum of services within a restorative justice framework, thereby becoming optimally effective in fulfilling its mission to redirect the lives of troubled children.*

With the exception of educational programming, services are provided via the Divisions of Community and Rehabilitative Services. The Division of Community Services provides case management supervision at 43 county offices. Other services include prevention, early intervention and victim services. In FY 12-13, 16,754 new juvenile cases were processed. This represents a 2.5 percent decrease over the previous year.

The Division of Rehabilitative Services oversees custodial care for all youth confined to DJJ's hardware secure facilities: Broad River Road Complex (BRRC), DJJ Detention Center, Coastal Evaluation Center, Midlands Evaluation Center and the Upstate Evaluation Center. Six functional areas operate within this division to include Restorative Justice Coordination Services, the focus of this project.

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2 South Carolina Department of Juvenile Justice Accountability Report 2012-2013
PROBLEM STATEMENT

DJJ has made tremendous strides over the past decade. With the average daily population at BRRC declining to under 100 for five months during 2013, it evident that the agency is headed in the right direction (Barber, SCDJJ Report Card for 2013, p.4). In keeping with its strategic plan, the agency redirected resources from its hardware secure facilities to community-based services. Reform focused planning and declining numbers of youth requiring secure confinement has enabled DJJ to focus on keeping lower risk youth out of the system and limiting penetration into the system when appropriate. With that being said, the youth that are currently in confinement at BRRC, though relatively few in number, are the state's highest risk juvenile offenders. In addition to histories of trauma, these youth have complex treatment needs complicated by criminogenic, crime producing, factors such as substance use, deviant peer associations and poor academic achievement. Research indicates that majority of justice-involved youth, 65%-75%, have at least one diagnosable behavioral health disorder. An estimated 30% of the disorders are severe enough to merit immediate intervention. The symptoms associated with these disorders are particularly problematic in institutional settings, such as BRRC. Irritability, impulsivity and affective lability, (mood swings) are frequently interpreted as willful disobedience. Therefore, mental health needs go untreated while the youth are labeled unmotivated, hostile and defiant. These are the youth that are currently housed at BRRC. They present a challenge to the administration. Rehabilitative and treatment services struggle to implement effective programming that addresses mental health needs and criminogenic

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3 South Carolina Department of Juvenile Justice Report Card for 2013
4 cfc.ncmhjj.com/wp-content/.../Whitepaper-Mental-Health-FINAL.pdf
factors while simultaneously maintaining order and safety.

DJJ has eight strategic goals. These goals are focused around two macro strategies. One of the strategies is to create a continuum of evidence-based programs and practices throughout the agency. This strategy is based on the goal of restructuring and improving rehabilitative services. A key deliverable of this macro strategy is a reduction in the use of lock-ups at BRRC. The Balanced and Restorative Justice Program, BARJ, as operationalized within the BRRC, was implemented in response to this objective. As previously described, restorative principles are woven into the fabric of the agency. Generally speaking, BARJ is a philosophical orientation that emphasizes accountability to the victim and community, competency development for the offender, and public safety. Restorative programming is not new to the agency. Youth community service projects, juvenile arbitration and monetary restitution paid to victims of juvenile crime are among the long standing restorative DJJ initiatives. However, beginning October 1, 2012, DJJ further operationalized restorative principles by implementing the BARJ Program within BRRC. BRRC is the agency's sole long term secure facility. In FY 12-13, the average daily population at BRRC was 101. This represents a 72.8% decline since the FY 02-03 baseline. BRRC is comprised of three campuses: Birchwood, John G. Richards and Willow Lane. Male juvenile offenders are housed at the Birchwood and John G. Richards Campuses while the Willow Lane Campus is reserved for female offenders. This new initiative uses BARJ conferencing as a means of bringing victims, offenders and other persons affected by the offense together in a community conference. The goals of the conference are to encourage accountability, to teach social skills, and to enable the youth to reintegrate successfully.
back into the community. BARJ conferencing is intended to decrease the length of time that a juvenile spends in seclusion after a major incident. Immediately following the incident, an assessment is conducted by specially trained BARJ staff to determine if the youth is calm, cooperative and safe, CCS. This assessment will determine if the youth will be maintained in the area where the offense occurred (dorm, school, cafeteria, etc.) or moved to a self control or isolation area. This process replaced a long standing practice of offense based sanctions. In the past, certain major incidents resulted in automatic segregation. BARJ conferencing represents a change in protocol. Change, even when positive, requires evaluation and refinement. The following are a few areas of concern that have been posed as questions:

1. Are conference mandated sanctions being carried out by juvenile offenders?
2. Do the conferences have the desired effect of decreasing re-offending behavior in juveniles?
3. Is the victim satisfied with the process?
4. Have the number of major incidents and the length of time in seclusion decreased since the implementation of BARJ?

DATA COLLECTION:

In order to address the previously articulated questions and to determine the efficacy of the BARJ Program, an analysis of key data must be conducted. Early in the program development process, the BARJ database was created to track various activities associated with BARJ. This database will be used to ascertain whether or not sanctions are being completed according to policy and to determine the number of conferences per youth. Additionally, the data and the youth surveys will help determine
whether or not the BARJ conferences have the desired effect of decreasing reoffending behaviors. In an effort to ascertain youth, staff and victim satisfaction with BARJ and their perceptions of the effectiveness of the program, a youth and staff survey process will be implemented.

In the early 2000s, DJJ began participating in Performance-based Standards (PbS), a project of the Council of Juvenile Corrections Administrators (CJCA). With PbS, participating facilities measure their performance bi-annually based on standards that cover seven critical areas of operation including Security, Safety, Order, Justice, Health and Mental Health, Programming, and Reintegration. Staff develop action plans to address deficiencies revealed in the measurement process. Data collection is monitored on a regular basis by the parent organization to ensure reliability. PbS enables longitudinal comparisons of progress over time and comparison to national trend lines. PbS outcome measure data from October 2011, October 2012 and October 2013 will be used to compare pre and post-BARJ length of time in seclusion hours.

DATA ANALYSIS:

Are conference mandated sanctions being carried out by juvenile offenders? A review of the BARJ database revealed that a total of 204 youth were referred to the BARJ Program during the reporting period. A total of 2520 community and unit conferences were conducted. Community conferences are used for the more serious offenses such as assaults on staff or peers while the unit conferences are intended to address minor behavioral infractions such as horseplay. Both unit and community conferences receive the designation of complete when all of the required sanctions are successfully fulfilled. The vast majority of the conferences (1576) were
unit conferences. There were 862 community conferences excluding 82 community conferences that were, subsequently, converted to unit conferences. Although almost 900 community conferences were conducted, only 459 were completed. This equates to a completion rate of 53%. The completion rate of the community conferences converted to unit conferences was also poor. Only, 32 of these conferences were completed. The unit conference completion rate was much better. Ninety-five percent of these conferences reached completion. In summary, conference completion rates for the more serious community conferences are inordinately low. Youth who commit minor behavioral infractions are much more likely to complete the required sanctions than those who commit more serious offenses. The database, as initially designed, did not track the reason that a sanction was not completed making it difficult to determine the exact cause. However, a preliminary project recommendation resulted in this issue being resolved. The database was revised to include a new data field that would identify the reason for incomplete sanctions. The available options are (a) juvenile refused (b) staff neglect (c) neutral and (d) other. Both neutral and other require an explanation.

Do the conferences have the desired effect of decreasing re-offending behavior in juveniles? Does participating in a BARJ conference lead to a reduction in behavioral infractions that lead to community or unit conferences? During February 2014, the youth at BRRC were asked to complete an 11 item BARJ survey. Participation was voluntary and approximately 60 surveys were distributed. Remarkably, 56 surveys were returned. The finding are somewhat mixed. The youth, overwhelmingly, reported an understanding of victim impact and an acceptance of
responsibility for their behaviors. However, the majority claimed that their behaviors had worsened since participating in BARJ. Specifically, 71% of the youth surveyed reported understanding how their actions harmed their victims. The vast majority, 75%, reported accepting responsibility for actions that led to the BARJ conference with 62% claiming to have successfully completed their required sanctions. Regarding behavioral change, 53% of the youth polled said that BARJ helped them to make better decisions. Interestingly, 49% of the youth polled reported improved behavior; however, when asked if their behavior had gotten worse, 63% reported a worsening of behavior. Based on the responses, one could conclude that some of the youth did not understand the questions or that, perhaps, there was some ambivalence about the impact of BARJ participation on post-BARJ behavior. (See the Appendix B for additional information.)

Is the victim satisfied with the process? BARJ currently does not track victims or monitor for victim satisfaction. That said, the BARJ Youth Survey, BARJ Staff Survey and the BARJ Clinical Staff survey all have a question that pertains to the victim. As previously, indicated 71% of the youth surveyed reported understanding how their actions harmed the victim. While the question did not directly address victim satisfaction, one can presume that the youth’s awareness of impact of his behavior on the victim is a positive first step towards victim empathy. The thinking is that the youth will be less likely to harm individuals when he or she is able to empathize with the victim. Conversely, the majority of BRRC security staff surveyed, 60%, did not see BARJ as an effective way to resolve victim/offender issues. The clinical staff had more diversity of thought. Forty-five percent of the clinicians indicated that the BARJ process was an effective way to resolve victim/offender issues. In summary, the question of
victim satisfaction cannot be definitively answered at this time. However, BARJ, at its core, is victim centered. Therefore, it is imperative that a mechanism be put in place to obtain feedback from victims. Victim satisfaction surveys can be implemented at no cost.

*Have the number of major incidents and the length of time in seclusion decreased since the implementation of BARJ?*

There have been 862 BARJ Community conferences during the October 1, 2012-October 13, 2013 reporting period. It was not uncommon for a youth to have more than one community conference during this period. The average number of conferences per youth was five. The range was one to 27. The mode was one. This indicates that the majority of the youth (forty-six) did not have a repeat incident. However, the number of community conferences for 30 youth exceeded 10. These frequent flyers may require specialized intervention to help them adjust to the program.

Seclusion hours are monitored regularly. This PbS outcome measure is tracked bi-annually in April and in October. All seven DJJ facilities participate in PbS; however, only BRRC (Birchwood, John G. Richards and Willow Lane) data will be included in this report. Seclusion hours have been on the decline since the inception of BARJ. As previously indicated, the BARJ program was implemented in October 2012. A review of the Birchwood data reveals a decline in seclusion hours from 15.74 hours in 2011 to .51 seclusion hours in October 2013. John G. Richards experienced a decline from 68.06 to 4.74 during the same period. However, Willow Lane had a slight increase over the previous October in 2012 but did exceptionally well in October 2013. There were
no seclusion hours during this data collection period. The following table offers additional information regarding the seclusion hours during the specified data collection periods. The field average column refers to similarly sized juvenile justice facilities across the nation.

<table>
<thead>
<tr>
<th>PbS Outcome Measure</th>
<th>Average duration of isolation, room confinement, and segregation management in hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>October 2011</td>
</tr>
<tr>
<td>Birchwood</td>
<td>15.74</td>
</tr>
<tr>
<td>Field Average*</td>
<td>19.18</td>
</tr>
</tbody>
</table>

|                     | October 2011 | October 2012 | October 2013 |
| John G. Richards    | 68.06        | 4.74         | 4.74         |
| Field Average*      | 19.18        | 13.84        | 9.12         |

|                     | October 2011 | October 2012 | October 2013 |
| Willow Lane         | 29.26        | 33.43        | 0            |
| Field Average*      | 19.18        | 13.84        | 9.12         |

**SUMMARY & RECOMMENDATIONS:**

The BARJ Program has the potential to improve outcomes for the youth at BRRC. Restorative in nature, the program is intended to repair the harm between the victim and the offender, while at the same time, helping the youth to develop skills and

[^5]: [http://surveys.pbstandards.org](http://surveys.pbstandards.org)
competencies. Some of the issues with BARJ, as conveyed in the open response sections of the youth and staff surveys, are as follows:

A. The process takes too long
B. The point system should be replaced
C. Sanctions are ineffective
D. Process does not work with this population
E. Juveniles are not held accountable for their behaviors

A majority of the security staff saw BARJ as ineffective. This is a major issue that must be addressed. However, there were those who saw the program as a step in the right direction. Some of the program strengths, as articulated in the open response section of the youth and staff surveys, are listed below:

A. BARJ gives the youth an opportunity to be heard
B. Teaches mediation and conflict resolution skills
C. Helps build rapport between youth and staff
D. Gives youth a second chance
E. Helps youth understand the affects of their behaviors on others

BARJ, as operationalized at BRRC, is in its developmental phase. The, overall, premise and structure of the program are sound. However, there are areas of the program that must be improved. The BARJ Data base has the capacity to track trend data. Monitoring and reporting BARJ trends should be become a function of the BARJ program manager. Quantitative reports should be generated on a monthly basis and
shared with BRRC administration. Special attention should be given to the conference completion data. Now that the BARJ database captures the reason for incomplete sanctions, this information can be tracked, reviewed and an improvement plan implemented. Client specific data should be shared with social workers. This will enable clinicians to better identify struggling youth.

Youth and staff surveys consistently listed the BARJ sanctions as ineffective. An interdisciplinary team of social workers, psychologists, activity therapists, teachers, juvenile correctional officers, PbS coordinators and youth should be convened to look at the current list of sanctions. The goal of the group is to develop a list of graduated sanctions to be submitted to BRRC administration for consideration.

BARJ is, inherently, victim focused. However, the BRRC BARJ program does not monitor for victim satisfaction. A protocol should be put in place that ensures victim input into program development. This could be accomplished by assessing victim satisfaction via a survey. Victims would receive a survey within seven days of conference completion. Once again, a conference is not considered complete until the required sanctions have been fulfilled. If the sanctions are not completed within 30 days, the victim would be given the opportunity to complete the satisfaction survey. Victims would be given this opportunity within seven days of the 30th day.

Staff would benefit from additional training in working with resistant youth. Motivational interviewing is a model that has been successful in moving resistant youth towards positive behavioral change. The model emphasizes support and respect. The
process guides the youth towards identifying the needs for his or her behavioral change. DJJ has already contracted with a consultant to provide training in this model for certain staff. The training audience should be expanded to include all BARJ staff, youth specialists and juvenile correctional officers.

In conclusion, BARJ is in line with juvenile justice reform efforts. Although there are process issues that require modification, this strength based program is a step in the right direction. The conferences give youth the opportunity hear the ramifications of their behaviors directly from the victim's perspective. This process can lead to empathy development and offender accountability. Youth describe the opportunity to be heard as a positive outcome of BARJ. Researchers have discovered a correlation between the residential experiences of youth and the safety and climate within the facility. More importantly, researchers found that the youth who had positive experiences, while in custody, were less likely to recidivate. In conclusion, the stakes are high. Getting it right is to important to leave to chance. BARJ is a component of DJJ's comprehensive effort to transform the lives of youth under its jurisdiction. If, in fact, the positive experiences of the youth at BRRC can result in decreased recidivism, then every effort must be made to improve the environment at BRRC.

6 Performance-based Standards, What Youth Say Matters October 2013
Reflected above are the graphs representing the BARJ complete and incomplete conferences. As a reminder, the community conferences are used for the more serious offenses while the unit conferences are conducted for minor offenses. Both community and unit conferences receive the designation of complete when all of the required sanctions have been successfully fulfilled. The BRRC community conference had a 53% completion rate during the October 1, 2012-October 31, 2013 reporting period.
The preceding graph highlights the responses of seven questions taken from BARJ Youth Survey. The following graphs represent the findings of the seven questions that pertain to behavioral change. See Appendix B-5 to view the entire 11 item survey.
Appendix B-1

BARJ YOUTH SURVEY

I understand how my actions harmed my victim.

BARJ YOUTH SURVEY

I accepted responsibility for my actions in the BARJ Conference.
Appendix B-2

BARJ YOUTH SURVEY

I successfully completed my sanctions.

BARJ YOUTH SURVEY

BARJ has helped me to make better decisions.
Appendix B-3

BARJ YOUTH SURVEY
My behavior has improved since I participated in BARJ.

- 27.49% (10, 18%)
- 33% (18, 33%)
- 15% (12, 22%)
- 63% (8, 15%)

BARJ YOUTH SURVEY My behavior has gotten worse since I participated in BARJ.

- 63% (35, 63%)
- 15% (12, 22%)
- 15% (8, 15%)
BARJ YOUTH SURVEY BARJ has had no affect on my behavior.

- 16, 30%
- 17, 31%
- 21, 39%
Please answer the questions honestly. Your feedback is important and will be shared with Mr. Broughton.

1. I understand the purpose of the BARJ Program. _Yes_ _No_ _Not Sure_
2. My BARJ Conference was fair. _Yes_ _No_ _Not sure_
3. I was able to be heard during the BARJ Conference. _Yes_ _No_ _Not Sure_
4. I understand how my actions harmed my victim. _Yes_ _No_ _Not Sure_
5. I accepted responsibility for my actions in the BARJ Conference. _Yes_ _No_ _Not Sure_
6. My sanctions were fair. _Yes_ _No_ _Not Sure_
7. I successfully completed my sanctions. _Yes_ _No_ _Not Sure_
8. BARJ has helped me to make better decisions. _Yes_ _No_ _Not Sure_
9. My behavior has improved since I participated in BARJ. _Yes_ _No_ _Not Sure_
10. My behavior has gotten worse since I participated in BARJ. _Yes_ _No_ _Not Sure_
11. BARJ has had no affect on my behavior. _Yes_ _No_ _Not Sure_

Please complete the following section.

1. What did you like about BARJ?
   _____________________________________________________________
   _____________________________________________________________
2. What didn’t you like about BARJ?
   _____________________________________________________________
   _____________________________________________________________
3. What changes would you recommend to improve BARJ?
   _____________________________________________________________
   _____________________________________________________________
Appendix C

BARJ CLINICAL SURVEY RESULTS

Appendix C reflects the survey responses of the BRRC social workers and psychologists. This survey was distributed, via Survey Monkey, to the 25 clinical staff assigned to BRRC. A total of 20 responses were received.
Appendix C-1

BARJ STAFF SURVEY CLINICAL

Please answer the questions honestly. Your feedback is important.

1. I understand the purpose of the BARJ Program. __Yes __No __Not Sure

2. I have participated in at least one BARJ Community Conference. (If no, proceed to item 5.) ___Yes ___No ___Not Sure

3. I understood my role in the BARJ Community Conference. ___Yes ___No ___Not Sure

4. I believe that the BARJ Community Conference is an effective way to resolve victim/offender issues that may cause problems in the community. ___Yes ___No ___Not Sure

5. I believe that the BARJ process holds juveniles accountable for their behaviors. ___Yes ___No ___Not Sure

6. I believe that BARJ has made BRRC safer. ___Yes ___No ___Not Sure
   Please explain your response:
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

7. I believe that BARJ has made BRRC less safe. ___Yes ___No ___Not Sure
   Please explain your response:
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

8. I believe that BARJ has no impact of the safety BRRC. ___Yes ___No ___Not Sure
   Please explain your response:
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

Please complete the section below. Your thoughts and ideas are appreciated.

Program Strengths: ________________________________________________
   ____________________________________________________________
   ____________________________________________________________

Program Weaknesses: ______________________________________________
   ____________________________________________________________
   ____________________________________________________________

Recommendations for improvement: _________________________________
   ____________________________________________________________
   ____________________________________________________________
Appendix D-

The following graphs reflect the survey responses of BRRC security staff to the 10 item BARJ Staff Survey. Most of the staff understood the purpose of BARJ. However, as a group, they did not see BARJ as an effective way to resolve victim/offender issues or to hold youth accountable for their behaviors. See Appendix D-5 for the survey questions.
Appendix D-1

I understand how the BARJ Program operates.

I understand the difference between the BARJ Community Conference and the Unit Conference.
Appendix D-2

I understand my role in the BARJ Community Conference.

I believe the BARJ has made BRRC safer.
Appendix D-3

I believe that BARJ holds juveniles accountable for the behaviors.

I believe BARJ has made BRRC less safe.
Appendix D-4

I believe that BARJ has had no impact on the safety of BRRC.
BARJ Staff Survey

Please answer the questions honestly. Your feedback is important.

1. I understand the purpose of the BARJ Program. ___ Yes ___ No ___ Not Sure

2. I understand how the BARJ Program operates. ___ Yes ___ No ___ Not Sure

3. I understand the difference between the BARJ Community Conference and the Unit Conference. ___ Yes ___ No ___ Not Sure

4. I have participated in at least one BARJ Community Conference. (If no, proceed to item 7.) ___ Yes ___ No ___ Not Sure

5. I understood my role in the BARJ Community Conference. ___ Yes ___ No ___ Not Sure

6. I believe that the BARJ Community Conference is an effective way to resolve victim/offender issues that may cause problems in the community. ___ Yes ___ No ___ Not Sure

7. I believe that the BARJ process holds juveniles accountable for their behaviors. ___ Yes ___ No ___ Not Sure

8. I believe that BARJ has made BRRC safer. ___ Yes ___ No ___ Not Sure
   Please explain your response: ____________________________________________
   ____________________________________________
   ____________________________________________
   ____________________________________________

9. I believe that BARJ has made BRRC less safe. ___ Yes ___ No ___ Not Sure
   Please explain your response: ____________________________________________
   ____________________________________________
   ____________________________________________
   ____________________________________________

10. I believe that BARJ has no impact on the safety of BRRC. ___ Yes ___ No ___ Not Sure
    Please explain your response: ____________________________________________
        ____________________________________________
        ____________________________________________
        ____________________________________________

Please complete the section below. Your thoughts and ideas are appreciated.

Program Strengths: ____________________________________________
                   ____________________________________________
                   ____________________________________________
                   ____________________________________________

Program Weaknesses: ____________________________________________
                    ____________________________________________
                    ____________________________________________
                    ____________________________________________

Recommendations for improvement: ____________________________________________
                                  ____________________________________________
                                  ____________________________________________
                                  ____________________________________________
Participation in PbS reflects a commitment to continuous improvement. DJJ ranks among the best nationally in overall performance, according to National Performance based Standards (PbS) Coach Dave Crowley. During FY 12-13, three facilities achieved Level Four, the highest possible rating, ranking them in the top six (6) to twelve (12) percent of PbS participating facilities in the country. Seclusion hours have been on the decline since the inception of BARJ in October 2012. 

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7 South Carolina Department of Juvenile Justice Accountability Report 2012-2013.
References


South Carolina Department of Juvenile Justice Accountability Report (2012-2013)

South Carolina Department of Juvenile Justice Report Card (2013)