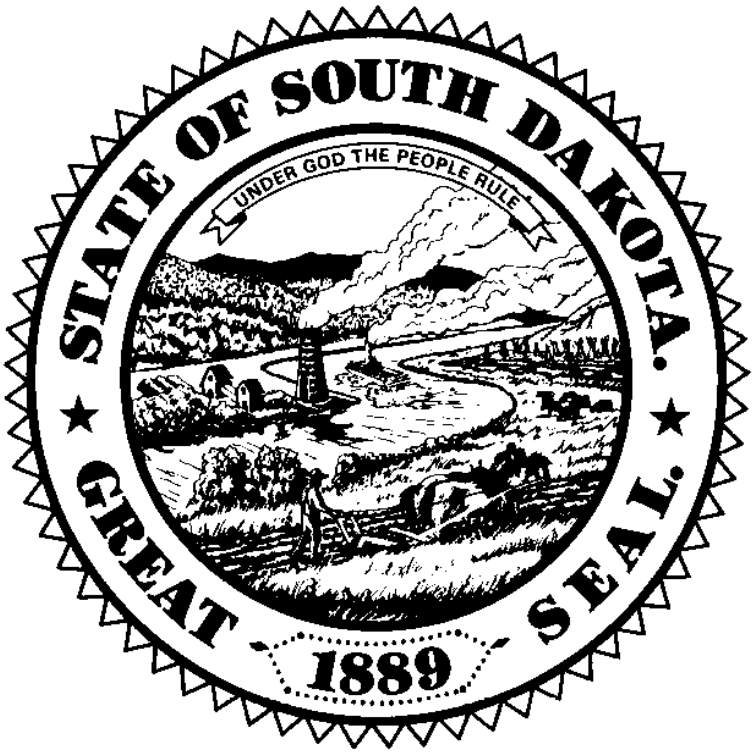
COUNCIL OF JUVENILE SERVICES

ANNUAL REPORT TO THE

GOVERNOR, CHIEF JUSTICE AND LEGISLATURE

FISCAL YEAR 2004



June 30, 2004

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EXECUTIVE SUMMARY

The Juvenile Justice and Delinquency Prevention Act, as amended, establishes four core protections with which participating States and territories must comply to receive formula grants under the JJDP Act:

- Deinstitutionalization of status offenders (DSO).
- Separation of juveniles from adults in institutions (separation).
- Removal of juveniles from adult jails and lockups (jail removal).
- Reduction of disproportionate minority contact (DMC), where it exists.

To be eligible to receive a formula grant, a State must: (1) designate a State agency to prepare and administer the State's comprehensive 3-year juvenile justice and delinquency prevention plan; (2) establish a State Advisory Group (SAG), appointed by the Chief Executive, to provide policy direction (or advise a broad-based supervisory board that has policy responsibility) and participate in the preparation and administration of the Formula Grants program plan; and (3) commit to achieve and maintain compliance with the four core requirements of the JJDP Act. States may use their formula grants to support a variety of programs related to preventing and controlling delinquency and improving the juvenile justice system.

South Dakota participated in the formula grants program in the late 1970's and mid-1990s.

When Governor M. Michael Rounds took office January of 2003, one of the transition issues put before him was the State's participation in formula grants program of the JJDP Act. Governor Rounds determined that the requirements of the Act represent national juvenile justice standards that the State should follow. Senate Bill 202 was drafted and introduced on his behalf. Senate Bill 202 made the necessary changes to the juvenile justice processes in South Dakota in order for the State to meet the Act's requirements. The Legislature passed Senate Bill 202 which allowed the State to once again participate in the formula grants program.

The Council of Juvenile Services is the state advisory group for the State's participation in the formula grants program of the JJDP Act. SDCL 1-15-30, as amended by Senate Bill 8 in the 2003 Legislative Session, outlines the responsibilities of Council of Juvenile Services.

The Council first met in August of 2003 and submitted South Dakota's 2003-2005 Three Year Plan in November. In addition to developing and submitting the Three Year Plan and Federal Fiscal Year 2003 and 2004 applications, the following are additional accomplishments of the Council in State Fiscal Year 2004:

- Designed and implemented a system to collect and analyze compliance data.
- Completed initial DMC identification phase and provided data to Mountain Plains Research to initiate the DMC assessment process.
- Began initial work on the Native American Pass-through Requirement with input from the Juvenile Justice Tribal Advisory Group convened by the South Dakota Coalition for Children.
- Initiated a juvenile justice system assessment through the Systems and Services Committee.

The Council of Juvenile Services has identified the following activities for State Fiscal Year 2005:

July-September 2004

- Initiate a county reimbursement program for detention, shelter, holdover, transportation and electronic monitoring.
- Complete the identification phase of DMC utilizing the new "contact" standard.
- Provide Court and arrest data to Mountain Plains Research for the next part of the assessment phase of DMC.

October-December 2004

- Complete the Compliance Monitoring Manual.
- The Systems and Services committee will complete its recommendations to the Council of Juvenile Services on system changes, new programs, and programs to be funded with system improvement funds.
- Conduct site visits of 48 Hour Rural Jail Exception Facilities.
- The Tribal Advisory Group will make recommendations to the Council of Juvenile Services on administration of Native American Pass Through funds.

January-March 2005

- The Council will make initial juvenile justice grant awards for pilot projects.
- Distribute and provide training on the Compliance Monitoring Manual.
- The DMC Committee will receive and respond to initial findings of Mountain Plains Research.
- Native American Pass Through funds will be made available to Indian Tribes.

April-June 2005

- Complete and file the 2004 Compliance Monitoring Report with the OJJDP.
- DMC Committee will make recommendations to the Council of Juvenile Services on intervention strategies and programs to be funded with DMC formula grant funds.
- Ongoing technical assistance will be made available to Indian Tribes as requested.
- Conduct ongoing grant monitoring for projects funded.

South Dakota Codified Law 1-15-30, (8.) requires the Council of Juvenile Services to *"Make a special study of, and make an annual report to the Governor, the Unified Judicial System, and the Legislature by June thirtieth of each year concerning, the appropriate administration of and provision for children in need of supervision in this state*". It is the intent of the Council of Juvenile Services that this report satisfy this requirement.

The Systems and Services Committee has spent considerable time during their first three meetings discussing the *"CHINS issue"*. The following are preliminary recommendation of the Committee:

- Develop a process to assess and provide more services to youth and families when the youth first enters the juvenile justice system as a status offender to prevent further contact with the system.
- Develop a program to provide intensive services to CHINS and families to prevent out of home placement.

- Consider pilot projects in areas with high relative rates of CHINS commitment per capita to reduce DOC commitments of CHINS.
- Expand CHINS dispositional options for Judges to include residential treatment, therapeutic foster care, and inpatient alcohol and drug treatment.

In fiscal year 2005, the Council will continue to deliberate on the subject of the *administration of and provision of services for* Children in Need of Supervision. More data collection, analysis and systems and programs research will be conducted in the next year in the following areas in order to develop specific recommendations for CHINS:

- Research how other states administer to status offenders.
- Explore the link between child protection issues and status offenders and delinquency.
- Document the needs of CHINS and their families and identify service gaps and barriers.
- Identify models of effective early community-based responses to status offending behaviors.
- Implement a CHINS pilot project focused on prevention and/or early intervention.
- Further research and debate the issue of what state agency should be responsible for the administration of and provision of services for Children in Need of Supervision.

Section 1 - Juvenile Justice and Delinquency Prevention Act

Since its passage in 1974, the Juvenile Justice and Delinquency Prevention (JJDP) Act has changed the way states and communities deal with troubled youth. The original goals of the Act and of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) were simple: to help state and local governments prevent and control juvenile delinquency and to improve the juvenile justice system. These goals were reaffirmed in the reauthorization of the Act in 2002. A second important element in the 1974 Act was to protect juveniles in the juvenile justice system from inappropriate placements and from the harm—both physical and psychological—that can occur as a result of exposure to adult inmates. Yet another important element of the JJDP Act emphasized the need for community-based treatment for juvenile offenders. In passing the JJDP Act, Congress recognized that keeping children in the community is critical to their successful treatment.

The JJDP Act, through the 2002 reauthorization, establishes four core protections with which participating States and territories must comply to receive grants under the JJDP Act:

- Deinstitutionalization of status offenders (DSO).
- Separation of juveniles from adults in institutions (separation).
- Removal of juveniles from adult jails and lockups (jail removal).
- Reduction of disproportionate minority contact (DMC), where it exists.

Meeting the core protections is essential to creating a fair, consistent, and effective juvenile justice system that advances the important goals of the JJDP Act.

Each participating state must develop and implement a strategy for achieving and maintaining compliance with the four core protections as part of its annual Formula Grants State Plan. A state's level of compliance with each of the four core protections determines eligibility for its continued participation in the grant programs. For example, failure to achieve or maintain compliance, despite good faith efforts, reduces the Formula Grant to the state by 20 percent for each core requirement not met. In addition, the noncompliant state must agree to expend 50 percent of the state's allocation for that year to achieve compliance with the core requirement(s) with which it is not in compliance.

As part of the strategy for maintaining compliance, states must provide for an adequate system of monitoring to ensure that the core protections are met. States must visit and collect information from secure facilities to demonstrate compliance with the JJDP Act. On an annual basis, each state submits this information in the form of a Compliance Monitoring Report to OJJDP. The report provides compliance data and a detailed description of how the state is meeting the core protections. The following four sections contain information on each of the core protections.

1.1 Deinstitutionalization of Status Offenders (DSO)

The DSO provision was included in the original JJDP Act. As enacted in 1974, the Act required States to "provide within three years. . . that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult (i.e., status offenders), shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities."

A 1977 amendment to the JJDP Act expanded the DSO provision to expressly include nonoffenders such as dependent and neglected youth. It also removed the requirement that these juveniles be placed in shelter facilities, allowing state and local governments additional latitude in the placement of status offenders and nonoffenders.

In 1980, Congress specified that status offenders and nonoffenders must be removed from "secure" juvenile detention and correctional facilities. Congress also added a new jail and lockup removal requirement, which prohibits juveniles—including accused and adjudicated delinquents, status offenders, and nonoffenders—from being detained in adult jails and adult lockups. Congress further amended the JJDP Act that year to allow states to detain or confine status offenders in secure juvenile facilities for the violation of a valid court order. As amended by the JJDP Act of 2002, the DSO requirement currently reads as follows:

> "juveniles who are charged with or have committed an offense that would not be criminal if committed by an adult—excluding juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar state law; juveniles who are charged with or who have committed a violation of a valid court order; and juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State—shall not be placed in secure detention facilities or secure correctional facilities." In addition, the 2002 Act states that "juveniles who are not charged with any offense and who are aliens or alleged to be dependent, neglected, or abused shall not be placed in secure detention facilities or secure correctional facilities."

1.2 Separation of Juveniles from Adult Offenders (Separation)

Since the inception of the juvenile justice system, the practice of incarcerating juveniles with adult inmates has been criticized. The placement of juveniles in institutions where they are mixed with adult inmates is emotionally and physically traumatic, resulting in further victimization. Moreover, commingling juvenile offenders with adults provides an education in crime and undercuts the intent of a separate juvenile justice system designed to rehabilitate and treat juvenile offenders.

In one of the original provisions of the JJDP Act, Congress sought to provide separation between adult inmates and juveniles in institutional settings such as jails, lockups, prisons, and other secure facilities. The JJDP Act of 2002, as amended, provides that "juveniles alleged to be or found to be delinquent," as well as status offenders and nonoffenders, "will not be detained or confined in any institution in which they have contact with adult inmates." The 2002 Act further requires that "there is in effect in the state a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, [to] have been trained and certified to work with juveniles."

1.3 Removal of Juveniles from Adult Jails and Lockups (Jail Removal)

Although many of the juveniles taken into police custody and referred to the juvenile court can be released to parental custody to await court action, juveniles who have committed serious crimes and are a safety risk to the community may be removed from their homes and placed in

secure facilities pending court hearings. Prior to the passage of the jail and lockup removal provision in the JJDP Act, this routinely resulted in placing juveniles in adult jails or lockups in danger of physical or emotional harm from adult prisoners. Research has shown that young people held in adult facilities were sexually assaulted five times more often than youth in juvenile facilities, assaulted by staff twice as often, and assaulted with a weapon 50 percent more often.

In an effort to protect juveniles in custody and to meet the 1974 separation requirement of the JJDP Act, jail officials sometimes placed juveniles in solitary confinement. This practice aggravated the psychological effects of jailing and, in some cases, led to suicide. In fact, juveniles in jails are found to commit suicide eight times more often than those in juvenile detention facilities. Moreover, young people in adult facilities were being deprived of educational and other services provided in juvenile facilities. For these reasons, Congress amended the JJDP Act in 1980 to include the jail and lockup removal requirement, which states that "no juvenile shall be detained or confined in any jail or lockup for adults," a requirement reaffirmed in the JJDP Act of 2002.

The JJDP Act of 2002 provides the following exception: "juveniles who are accused of nonstatus offenses who are detained in such jail and lockup for a period not to exceed 6 hours for processing or release, while awaiting transfer to a juvenile facility, or in which period such juveniles make a court appearance, and only if such juveniles do not have contact with adult inmates." Under special circumstances, the Act also provides for a "rural" exception of up to 48 hours (excluding Saturdays, Sundays, and legal holidays).

1.4 Reduction of Disproportionate Minority Contact (DMC)

In 1988, Congress took note of this problem by focusing state attention on the phenomenon of disproportionate minority confinement in the juvenile justice system. In 1992, Congress required states to address disproportionate minority confinement as a condition for receiving 25 percent of the state's Formula Grants program allocation, making it the fourth and final core protection of the JJDP Act. The 1992 amendments required states to determine if minority juveniles are disproportionately confined in secure detention and correctional facilities and, if so, to address any features of their juvenile justice systems that may account for the disproportionate confinement of minority juveniles. This core requirement neither required nor established numerical standards or quotas in order for a state to achieve or maintain compliance. Rather, it required states to identify whether minority juveniles are disproportionately detained or confined in secure facilities, provide a complete assessment of why disproportionate minority confinement exists, and provide an intervention plan that seeks to reduce the disproportionate confinement of minority juveniles in secure facilities.

As amended by the JJDP Act of 2002, the concept of disproportionate minority confinement has been broadened to address the disproportionate numbers of minority youth who come into contact with the juvenile justice system at any point. The 2002 Act requires states to "address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of the minority groups, who come into contact with the juvenile justice system."

[Source: Section 1 is printed from the 2002 Guidance Manual for Monitoring Facilities Under the JJDP Act with the permission of the Office of Juvenile Justice and Delinquency Prevention.]

Section 2 – South Dakota's Participation in the Formula Grants Program

2.1 Formula Grants Program Overview

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has been authorized to administer the Formula Grants program to support State and local delinquency prevention and intervention efforts and juvenile justice system improvements. The program is authorized under Title II, Part B, Section 222, of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended (Public Law 93-415, 42 U.S.C. 5601 et seq.).

Formula grant funds are appropriated by Congress and awarded by OJJDP to the 50 States, 5 territories, and the District of Columbia (hereafter referred to as States) on the basis of their proportionate population under age 18.

At least two-thirds of the funds awarded to each State must be used for programs by local public and private agencies and eligible American Indian tribes. The minimum amount of funds allocated to a State's American Indian tribes is based on the proportion of a State's youth population residing in areas where the tribal government performs law enforcement functions.

To be eligible to receive a formula grant, a State must: (1) designate a State agency to prepare and administer the State's comprehensive 3-year juvenile justice and delinquency prevention plan; (2) establish a State Advisory Group (SAG), appointed by the Chief Executive, to provide policy direction (or advise a broad-based supervisory board that has policy responsibility) and participate in the preparation and administration of the Formula Grants program plan; and (3) commit to achieve and maintain compliance with the four core requirements of the JJDP Act:

States may use their formula grants to support a variety of programs related to preventing and controlling delinquency and improving the juvenile justice system. Funds may be used for research, evaluation, statistics and other informational activities, and training and technical assistance. Program areas include the following:

- Planning and administration. These activities include developing the State plan and evaluation and monitoring activities. A State cannot use more than 10 percent of its total annual award for these activities, and the funds must be matched 100 percent by the State.
- State Advisory Group (SAG) allocation. States are allowed to use up to 5 percent of the minimum allocation each year to support the SAG's
- Core requirements. Formula grant funds can be used to address the DSO, separation, adult jail and lockup removal, and DMC requirements of the JJDP Act.
- Compliance monitoring. States can use funds to enhance or maintain their ability to monitor jails, detention centers, and other facilities to ensure compliance with JJDP Act core requirements.
- Juvenile justice issues for American Indian tribes.
- Prevention of the use and abuse of illegal drugs and alcohol by juveniles.
- Prevention of serious and violent crimes by juveniles.

- Prevention of juvenile gang involvement and illegal youth gang activities.
- Prevention of delinquent acts and identification of youth at risk of delinquency.
- Improvement of juvenile justice system operations, policies, and procedures. Activities include establishing a system of graduated sanctions, treatment programs, and aftercare services.
- Support, enhancement, and evaluation of innovative local law enforcement and community policing programs.
- Other programs. These include programs not identified above but related to juvenile justice and delinquency prevention.

All Formula Grants program applications are due 60 days after OJJDP officially notifies States of their annual Formula Grants program allocation or by March 31 of the fiscal year for which the funds are allocated, whichever is later. Every 3 years, each State's application must include a comprehensive 3-year Formula Grants plan. States are required to submit annual updates to reflect new trends and identified needs in their juvenile justice systems along with planned strategies and programs to address them. States generally issue Requests for Proposals that invite local governments, private nonprofit agencies, and American Indian tribes to compete for funds to support programs that address the priority areas identified in State plans.

[Source for Section 2.1: OJJDP Formula Grants Program Series: Fact Sheet Author: Heidi M. Hsia Published: Office of Juvenile Justice and Delinquency Prevention, November 1999]

2.2 South Dakota's History of Participation and Non-Participating State Initiatives

Prior to 2003, the State of South Dakota had participated in the formula grants program of the JJDP Act on two occasions.

South Dakota participated in the Act from 1976 to 1978. In 1978, a decision was made not to continue to pursue compliance with the mandates of the Act. Members of the State Advisory Group expressed concern that compliance with the core requirements was not feasible given South Dakota's rural areas and scarce juvenile justice resources. Concern was also expressed that adherence to the core requirements may not be sound juvenile justice policy.

Beginning in the mid-1980's, the OJJDP began making funds available to units of local government and private not for profit agencies to move the state toward compliance and participation in the formula grants program. Under the Non-Participating State (NPS) Program, funds were made available to support data collection, planning, and programs that supported compliance with the Act's requirements. The South Dakota Association of Counties received a NPS grant from 1986 to 1989 and the South Dakota Youth Advocacy Project was formed to receive funds from 1989 through 1991. As the Youth Advocacy Project's grant period came to an end, Governor Mickelson was approached about the State once again participating in the formula grants program.

In 1992, Governor Mickelson filed an Executive Order that renewed South Dakota's participation in the Act's formula grant program. The Executive Order stated that South Dakota would participate in the formula program and would seek and maintain compliance with the Act's requirements. The Order designated the Department of Corrections as the state agency responsible

for staffing the initiative and established a State Advisory Group as required by the Act. The Department of Corrections and Juvenile Justice Advisory Council initiated compliance legislation that was passed by the 1994 Legislature. Data collected beginning in July of 1994 showed that the State was in compliance with the Act's requirements.

South Dakota participated in the Act until 1996 when legislation was passed that once again allowed juveniles to be jailed in violation of the requirements of the Act. Under this legislation, delinquents and CHINS could be held in adult jails if physically separated from adults. In 1997, based on the 1996 legislation and data collected from adult jails that showed noncompliance, OJJDP determined that South Dakota could no longer participate in the Act.

With the State ineligible for funding, the South Dakota Association of Counties once again received a NPS grant from 1999 through 2001. The South Dakota Coalition for Children currently receives an NPS grant and these funds are available through December 31, 2004. The Coalition has a State Advisory Group and makes funds available to counties to support compliance related services. These services include detention and shelter care subsidies and holdover site, transportation, electronic monitoring and home detention reimbursement. The Coalition has held a statewide juvenile justice symposium and has held regional planning meetings to examine non-compliance and other juvenile justice issues on a regional basis. The Coalition has also awarded subgrants for local juvenile justice projects.

2.3 2003 Legislative Session Renews Participation – Senate Bills 202 and 8

Two bills – Senate Bills 202 and 8 – passed in the 2003 Legislature paved the way for the State's renewed participation in the formula grants program.

When Governor M. Michael Rounds took office January of 2003, one of the transition issues brought to his attentions was State participation in formula grants program of the JJDP Act. South Dakota and Wyoming were the only two states not participating in this program. Governor Rounds determined that the requirements of the Act represent national juvenile justice standards that the State should follow. Senate Bill 202 was drafted and introduced on his behalf. Senate Bill 202 made the necessary changes to juvenile justice processes in South Dakota in order for the State to meet the Act's requirements.

Senate Bill 202 took advantage of 2002 amendments to the JJDP Act and put the State into a position to comply with the jail removal, sight and sound separation and the deinstitutionalization of status offenders requirements. Changes implemented by Senate Bill 202 include the following:

Jail Removal Changes made by SB 202

- Authorized collocated juvenile detention facilities and took advantage of recent amendments to the Act making it easier for some jails to qualify for collocated detention facility status.
- Allowed alleged delinquents to be held in some adult jails for up to 48 hours if they are sight and sound separated from adults and if the jail has been approved under the Rural Jail Exception by the Department of Corrections.
- Prohibited placing delinquents in jail as a disposition.
- Prohibited the placing of CHINS in jail.

- Juveniles in Magistrate or Circuit Court for traffic, hunting and fishing violations may be sentenced to detention or shelter, not jail.

Sight and Sound Separation Changes made by SB 202

- When alleged delinquents are held in jail, SB 202 required that they be held sight and sound separated from adults.

Deinstitutionalization of Status Offender Changes made by SB 202

- Alcohol consumption/possession is now a CHINS offense.
- No CHINS can be held in adult jails.
- CHINS can be held in detention up to 48 hours unless in violation of a valid court order.
- Takes advantage of recent amendments to the Act making it easier to hold CHINS in detention who are in violation of a valid court order.

With the strong support of Governor Rounds, the 2003 South Dakota legislature passed Senate Bill 202. Based on the changes made by Senate Bill 202, the OJJDP authorized the State of South Dakota to once again apply for formula grant funds

Senate Bill 8 renamed the state advisory group the "Council of Juvenile Services" and assigned additional responsibilities to the Council. With the changes made by Senate Bill 8, the Council of Juvenile Services became the juvenile justice planning body for the State of South Dakota.

Section 3.0 – Council of Juvenile Services

3.1 Membership Requirements

The Council of Juvenile Services is the state advisory group for the State's participation in the formula grants program of the JJDP Act.

Pursuant to Section 223(a)(3) of the JJDP Act, the state advisory group shall consist of not less than 15 and not more than 33 members appointed by the Chief Executive Officer of the State. At least one member shall be a locally elected official representing general purpose local government. At least one-fifth of the members shall be under the age of 24 at the time of appointment. At least three members shall have been or currently under the jurisdiction of the juvenile justice system. A majority of the members (including the Chairperson) shall not be full-time employees of Federal, State, or local government. Members are to have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

SDCL 1-15-29 identifies the Council of Juvenile Services as the state advisory group for the formula grants program and reads as follows:

> *There is hereby established a twenty-member Council of Juvenile Services to be appointed by the Governor and shall be comprised of individuals who have training, experience, or special knowledge of juvenile delinquency prevention or treatment or of the administration of juvenile justice. The membership of the Council of Juvenile Services shall comply with Section 223(a) (3) of the Juvenile Justice and Delinquency Act. The initial members to be appointed shall draw lots to determine who will hold the eight three-year terms, the six two-year terms, and the six one-year terms. Thereafter, each member shall serve a term of three years. Members may be reappointed and may continue to serve an expired term until replaced by the Governor. A chairperson, who may not be a full-time federal, state, or local employee, for the Council of Juvenile Services shall be chosen annually by a majority vote of its members at the first meeting each fiscal year.*

3.2 Council of Juvenile Services Responsibilities

Formula grant guidelines require the state advisory group to approve the state's Three-Year Plan and Formula Grant Application prior to submission to the OJJDP. The group also approves grant applications and funding decisions which involve formula grant funds. The advisory group is responsible for submitting an annual report to the governor and legislature that includes recommendations regarding state compliance with the requirements of the Act and a review of progress and accomplishments of projects funded under the state plan.

SDCL 1-15-30 outlines the responsibilities of the Council of Juvenile Services as follows:

(1) In conjunction with the secretary of the Department of Corrections, establish policy on how the formula grants program of the Juvenile Justice and Delinquency Prevention Act is to be administered in South Dakota;
(2) Approve the state plan, and any modifications thereto, required by 223(a) of the Act prior to submission to the Office of Juvenile Justice and Delinquency Prevention;
(3) Submit annual recommendations to the Governor and Legislature concerning the functions of the Council of Juvenile Services and the status of the state's compliance with the Act;
(4) Approve or disapprove grant applications and other funding requests submitted to the Department of Corrections under § § 1-15-27 to 1-15-31, inclusive, and assist with monitoring grants and other fund awards;
(5) Assist the Department of Corrections in monitoring the state's compliance with the Act;
(6) Study the coordination of the various juvenile intervention, prevention, treatment, and rehabilitation programs;
(7) Study effective juvenile sentencing, adjudication, and diversion policies and provisions;
(8) Make a special study of, and make an annual report to the Governor, the Unified Judicial System, and the Legislature by June thirtieth of each year concerning, the appropriate administration of and provision for children in need of supervision in this state;
(9) Contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and
(10) Perform other such activities as determined by the Governor, the secretary of the Department of Corrections, or the Council of Juvenile Services.

3.3 Membership of the Council of Juvenile Services

During the summer of 2003, the following individuals were appointed to the Council of Juvenile Services by Governor Rounds:

Lindsay Ambur, Youth Member, Fort Pierre
Richard Bird, Dacotah Pride, Agency Village
J.C. Chambers, Stronghold Counseling, Sioux Falls,
Mike Dacy, Gregory Public School, Gregory
Dennis Daugaard, Children's Home Society, Garretson
Laura Dillon, Youth Member, Huron
Sean Gilmore, Youth Member, Pierre
Doug Herrmann, Department of Corrections, Pierre
Dallas Johnson, Unified Judicial System, Pierre
Judge Janine Kern, 7th Circuit Court, Rapid City
Sheriff Mike Leidholt, Hughes County Sheriff, Pierre
Dave Nelson, Minnehaha States Attorney, Sioux Falls
Susan Randall, South Dakota Coalition for Children, Sioux Falls
Sharon Sonnenschien, Department of Social Services, Pierre
Gib Sudbeck, Division of Alcohol and Drug Abuse, Pierre
Doug Thrash, Rapid City Police Department, Rapid City
Carol Twedt, Minnehaha County Commission, Sioux Falls
Cheryl Three Stars Valandra, Tribal Judge, Pine Ridge
Joseph Verhulst, Youth Member, Spearfish

Grant Walker, Unified Judicial System, Gayville

At the first meeting of the Council in August 2003, Carol Twedt was elected Chair and Mike Leidholt was elected Vice-Chair.

3.4 Council of Juvenile Services Fiscal Year 2004 Activities

The Council of Juvenile services met five times in State Fiscal Year 2004. The initial meeting in August of 2003 included training for the Council on the JJDP Act and formula grants program by representatives from the Office of Juvenile Justice and Delinquency Prevention.

Council meetings in September, October and November of 2003 were primarily planning meetings focused on the development of the 2003-2005 Three Year Plan and 2003 Formula Grant Application, the development of committees, and drafting of a mission statement and Bylaws for the Council.

At the March 2004 meeting, the Council approved the 2004 Plan Update and 2004 Formula Grant Application, the 2004 Juvenile Accountability Block Grant Application and the 2004 Title V Delinquency Prevention application. At the June 2004 meeting, the Council received updates on the 2003 compliance monitoring data and the Systems and Services Committee and developed a funding strategy to provide staff support to the Tribal Advisory Group.

In order to complete its diverse responsibilities the Council established the following standing committees:

- Executive Committee;
- Compliance Committee;
- Disproportionate Minority Contact Committee;
- Systems and Services Committee; and
- Legislative Committee.

The Council chose to utilize the Coalition for Children's Tribal Advisory Group to assist with implementation of the Native American Pass Through requirement. An ad hoc Detention Standards Committee was establish to evaluate the need for standards for detention centers, shelter care and holdover site.

Section 4 - 2003-2005 Three Year Plan

South Dakota's 2003-2005 Three Year Plan provides for a comprehensive description and analysis of South Dakota's juvenile justice system. Plans for compliance with Act requirements, plans for identifying and intervening with disproportionate minority contact, and plans for networking with Indian Tribes are also included. The Plan also identifies needed juvenile justice system improvements and establishes a process to address these issues.

4.1 Compliance

The Three Year Plan provides for the development and implementation of a system of data collection and analysis in order to complete the Compliance Monitoring Report. The Report is required to participate in the formula grants program and determines the State's eligibility for funding. Also, as part of the monitoring process, site visit and data verification processes for juvenile facilities and adult jails were developed. The role of staff and of the Council of Juvenile Services was also established in these processes.

The Three Year Plan also identified the need to develop and distribute a compliance monitoring manual that contains applicable state and federal laws and regulations on the appropriate processing and housing of juveniles consistent with the JJDP Act. The manual will also include data collection and verification processes and facility site visit plans.

A total of $40,000 is budgeted in Federal Fiscal Year 2003 and 2004 to support compliance monitoring.

The Plan also provides funding of local projects to assist counties to comply with the requirements of the Act. Projects focus on the utilization of alternatives to jail and secure detention. Counties will be eligible to seek reimbursement for detention, shelter care, transportation, holdover sites, and electronic monitoring. A total of $800,000 is budgeted in Federal Fiscal Year 2003 and 2004 to reimburse counties for compliance related costs.

4.2 Disproportionate Minority Contact

States participating in the Formula Grants Program address DMC on an ongoing basis by moving through the following phases:

- **Identification.** To determine the extent to which DMC exists.
- **Assessment.** To assess the reasons for DMC, if it exists.
- **Intervention.** To develop and implement intervention strategies to address these identified reasons.
- **Evaluation.** To evaluate the effectiveness of the chosen intervention strategies.
- **Monitoring.** To note changes in DMC trends and to adjust intervention strategies as needed.

The 2003-2005 Three Plan sets timelines and processes for the five phases of the DMC process. Preliminary identification data was presented and plans to complete the identification phase were established.

Mountain Plains Research was selected to conduct the assessment phase. This phase requires the collection and analysis of a significant amount of data for youth at all phases of the juvenile justice system. Through the assessment process, DMC intervention points and strategies are identified. A DMC Committee will assist with the interpretation of the assessment report completed by Mountain Plains Research and will make recommendations to the Council on intervention projects to be funded and other strategies to address DMC. The DMC assessment phase is scheduled to be completed by March 2005.

Based on the results of the DMC assessment and the recommendations of the DMC Committee, the Council of Juvenile Services will identify interventions to be funded with formula grant funds. Intervention programs are scheduled to be implemented beginning in July of 2005.

Intervention programs will be evaluated and ongoing monitoring of DMC will occur in order to assess the impact of the interventions and to track if and how DMC rates change over time.

A total of $400,000 is budgeted in Federal Fiscal Year 2003 and 2004 to support DMC identification, assessment and intervention.

4.3 Native American Pass Through

States are required to pass through to Native American Tribes that perform their own law enforcement a percentage of the formula grant funds. Minimum pass through amounts are set by OJJDP. States can allocate funds beyond this amount and elect to grant funds to Tribes that do not perform their own law enforcement.

The Council has chosen to not merely pass through these funds but to establish an ongoing working relationship with all of the Tribes. The Council identified the following State-Tribal issues in the Three Year Plan:

- There is a need for a collaborative effort between state and local government and Native American Tribes to support the development, implementation, and maintenance of juvenile justice programs both on and off the reservations.

- Native Americans are over-represented in South Dakota's juvenile justice system. Many of the youth entering the state system are tribal members or eligible for membership. Some Tribes in South Dakota do not have sufficient juvenile justice resources to meet the needs of members who commit crimes on the reservation.

- With the involvement of state, local, and tribal juvenile justice practitioners and service providers, there is a need to conduct an assessment of the needs of Native American youth in the state and tribal justice systems; document the exiting services to meet those needs; identify barriers that restrict access to these services; identify service gaps; and develop, implement and evaluate programs to address the barriers and service gaps.

In order to establish an ongoing dialogue with the Tribes and to develop a process to pass through the funds, the Council elected to work with the Coalition for Children's Tribal Advisory Group. It is anticipated that the Tribal Advisory Group will meet quarterly to plan, share information and develop recommendations for the Council on the pass through process.

A total of $274,176 is budgeted in Federal Fiscal Year 2003 and 2004 to pass through to Native American tribes. The minimum amount to pass through is $156,588.

4. 4 Juvenile Justice System Improvement

States are allowed and encouraged to identify and address juvenile justice system improvement issues as part of the formula grant program. For this purpose, the Council has established a Systems and Services Committee. The Committee is charged with conducting an assessment of the juvenile justice system and making recommendations to the Council on system changes and utilization of system improvement funds

The 2003-2005 Three Year plan documents juvenile justice system improvement issues that the Council has identified to be addressed. The Plan includes detailed descriptions of these eight issues. The following are excerpts from the Plan which identify the Council's system improvement issues:

Children and Family Services – Child Abuse and Neglect

> Most of the juveniles entering South Dakota's juvenile justice system come from families where distress is caused by one or more of the following conditions: poverty, unemployment, homelessness, abuse, neglect, lack of appropriate parenting, alcoholism, drug abuse, or family member criminality. A statewide service system does not exist to effectively identify and address these issues in the families where help is wanted.
>
> There is a need to explore the link between child maltreatment and delinquency. It appears that requests for services from needy families and families on the margins of abuse and neglect far exceed existing resources.
>
> An assessment and referral process needs to be developed for families as youth enter the juvenile justice system. Service gaps and barriers need to be identified and addressed. Families need access to services on a statewide basis.

Mental Health and Developmental Disabilities Services

> Many of the young persons in South Dakota's juvenile justice system have mental health and/or developmental disability service needs. Additional funds are needed to improve the provision of mental health services at the community level, in both urban and rural areas, to include: home based services, appropriate psychological and psychiatric testing, individual and family counseling and medication management.

An assessment of the mental health needs of youth and needs of those youth with developmental disabilities who are entering the juvenile justice system must be conducted. Availability and access to services must also be reviewed to ensure youth and families are receiving the services needed to address the developmental disabilities and mental health problems of juvenile justice youth.

Prevalence of Substance Abuse Among Youth in the Juvenile Justice System

A very high percentage of the young persons appearing in the juvenile court system have substance abuse problems. An increasing number of young persons have involvement with methamphetamine. Additional resources are needed to provide access to drug and alcohol services especially in rural areas.

An assessment of the substance abuse needs of youth entering the juvenile justice system needs to be conducted. Availability and access to services must also be reviewed to ensure youth and families are receiving the services needed to address the substance abuse problems of juvenile justice youth.

Need for Community Based Prevention and Early Intervention Programs/Services for Young Offenders

Many children enter and remain in the juvenile justice system and become more involved in the system, leading in some cases to commitment to the Department of Corrections, due to a lack of appropriate and effective services in the community. In 2002, over 2,200 children were removed from their homes for substantiated abuse and neglect, and an additional 8,829 children entered the juvenile justice system through adjudicatory and non-adjudicatory actions. With over 10,000 children entering South Dakota's juvenile justice system annually, there is a need to expand prevention and early intervention services.

An assessment of the needs of youth upon their first entrance to the juvenile justice system should be conducted. Availability and access to services must also be reviewed to ensure youth and families are receiving the services needed to address the problems of juvenile justice youth.

Fetal Alcohol Spectrum Disorder (FASD)

A significant number of young persons within the juvenile justice system suffer from FASD. No statewide system exists to identify, diagnose and assist young persons with these disorders.

Based on the number of youth in South Dakota's juvenile justice system who qualify for residential developmental disability services and the rate of mental retardation due to FASD, it is apparent that FASD children are present in South Dakota's juvenile

justice system. The behavioral problems and cognitive deficits associated with FASD are consistent with the needs of some of the most challenging juvenile justice youth.

No process exists at the various stages of the juvenile justice system in South Dakota to consistently identify FASD youth and meet their individual and unique needs. There is a need for a statewide process to screen, assess and identify FASD youth in the juvenile justice system and to collaboratively develop and implement a service system to meet their individual needs. By identifying youth earlier, it is possible that youth may be diverted to more appropriate service systems. A screening tool for FASD should be developed and administered.

Staff training needs to be provided to the juvenile justice practitioners and staff of residential and non-residential providers that serve FASD youth to ensure that they can effectively serve this sub-population of their clients.

Education

Recognizing that the lack of participation and progress in education is a significant risk factor for crime and delinquency, efforts must be made to keep children at risk in an education continuum.

Children are at risk of falling behind academically if they do not attend school consistently. Truancy rates and their impact on delinquency needs to be assessed as well as truancy reduction programs developed and implemented in those schools with the greatest need.

Accessing education services in the community after returning from placement is critical for the success of the youth. In the 2002 Aftercare Assessment, youth who had "poor" progress/achievement in academics had a 47.8% revocation rate while those with "good" progress/achievement had a 19.2% revocation rate. Of the youth reviewed, 9.3% had dropped out or were suspended from school. A recent review of youth on Aftercare in the Rapid City area showed that only 30 youth attend school out of the 92 youth who should have been attending. In western South Dakota there is a need to develop alternative school programs for children on probation and those under the jurisdiction of the DOC.

Alternatives to Commitment

South Dakota has one of the highest incarceration rates of any state in the country. According to a recent publication by the US Department of Justice, South Dakota's incarceration rate was 632/100,000, which compares to a national rate of 371/100,000.

Juvenile justice research has shown that not meeting the needs of high risk juvenile offenders leads to recidivism. Providing a higher level of security and supervision of juvenile offenders than is needed can actually increase the likelihood of recidivism.

Research also shows that community based programs have higher success rates than incarceration.

There is a need to create additional alternatives prior to remanding juveniles to the Department of Corrections; for example, expanding probation services, providing more authority and resources to the Court for out of home placement, and other options. There is a need to identify and assess the services available from community-based non-profits and faith-based organizations.

Services for Children in Need of Supervision

Children in need of supervision (status offenders) remain in the juvenile justice system and are committed to the Department of Corrections due, in some cases, to lack of appropriate and effective services in the community. In other cases, this is due to the unwillingness of families to access and utilize these services. Filing a CHINS petition and an adjudication as a CHINS is utilized, at times, as a means to access services. Once a CHINS is adjudicated they are at risk of further penetration into the system and out of home placement. From FY'00 through FY'02, there were 163 CHINS committed to the DOC.

Additional services need to be made available to CHINS and their families. Alternatives to incarceration and commitment to DOC for CHINS need to be developed and implemented. Circuit Court Judges need expanded dispositional authority and resources to utilize community based treatment options including residential and foster care programs.

Project Evaluation

A process does not exist to systematically evaluate the needs of juvenile offenders and assess the availability of services to meet those needs provided at all stages of the juvenile justice system and areas of the state.

Every year, thousands of South Dakota youth enter the juvenile justice system. It is estimated that as many as 12,000 youth have contact with the system in any given year. An evaluation of the needs of offenders and pre-offenders should be conducted to ensure that appropriate prevention and early intervention services are available to prevent children's entry into the system and to divert youth from remaining in the system after their initial contacts.

An evaluation plan will need to be developed and applied to all projects funded with formula grants funds. A process to assess the effectiveness of all juvenile justice programs and services should be developed and implemented.

The 2003-2005 Three Year Plan sets forth the following System Improvement goals and objectives:

Goal A: Conduct an assessment of the needs of juvenile offenders and pre-offenders and the services available to meet those needs and conduct an assessment of juvenile justice processes to ensure that youth are given an opportunity to remain in the community and receive appropriate services

Objective 1: By September 30, 2004, a committee of the Council of juvenile services comprised of Council members and non-members shall conduct a thorough assessment of the needs of juvenile offenders and services available to meet those needs and make recommendations to the Council on the development of needed services.

Objective 2: By September 30, 2004, a committee of the Council of juvenile services comprised of Council members and non-members shall conduct a thorough assessment of juvenile justice system processes. This will include the child protection system to identify system changes, which promote greater utilization of community resources, greater collaboration and communication among agencies and better outcomes for youth.

Objective 3: By October of 2004, the Council of Juvenile Services will conduct an initial funding of services and programs to address service gaps and barriers, and will fund additional projects upon receipt of final needs and services assessment.

It is the responsibility of the Systems and Services Committee to conduct the assessments in Objective A and B and make recommendations to the Council of Juvenile Services on recommended system changes and projects to be funded. A total of $785,824 is budgeted in Federal Fiscal Year 2003 and 2004 to implement system improvement projects.

4.5 Formula Grants Budget

The 2003-2005 Three Year Plan and the 2004 Plan Update contain the formula grant budgets for Federal Fiscal Year 2003 and 2004 funds. The following table summarizes the budgets for these two fiscal years.

Formula Grant Funds

Budget Category	FY2003	FY2004	Total	Description
Deinstitutionalization of Status Offenders	$240,000	$80,000	$320,000	DSO, Separation and Jail Removal funds will support counties with compliance issues.
Separation of Juveniles from Adults	$120,000	$40,000	$160,000	Provides partial reimbursement of detention and shelter care costs, holdover funding, and transportation and electronic monitoring subsidies.
Jail Removal	$240,000	$80,000	$320,000	
Juvenile Justice System Improvement	$594,874	$190,950	$785,824	Funds will be used on a local basis to address identified jj system issues
Disproportionate Minority Contact	$275,000	$125,000	$400,000	Provides funds for research, staff and intervention programs.
Native American Programs	$235,176	$39,000	$274,176	Provides funds for grants to Tribes for juvenile justice programs.
Compliance Monitoring	$15,000	$25,000	$40,000	Provides funds for staff and related costs.
State Advisory Group Allocation	$96,150	$32,050	$128,200	Provides funds to cover the costs of the Council of Juvenile Services and committees.
Planning and Administration	$201,800	$60,000	$261,800	Provides funds to cover the costs of staff and related costs for the formula grants program.
Total	$2,018,000	$672,000	$2,690,000	

Section 5 - Fiscal Year 2004 Accomplishments

5.1 Compliance

A Compliance Monitoring Committee was appointed by the Chairperson of the Council of Juvenile Services and had their initial meeting in June. The Committee was briefed on the Act's requirements, reviewed compliance data and provided input for the Compliance Monitoring Manual. The following individuals were appointed to the Compliance Monitoring Committee:

Sheriff Kelly Serr, Bison
Ken McFarland, Ken McFarland
Judge Max Gors, Pierre
Sheriff Doug Nelson, Webster
Joseph Verhulst, Spearfish
Dennis Daugaard, Garretson
Dallas Johnson, Pierre
Carol Twedt, Sioux Falls
Vince Foley, Watertown
Carla Leveque, Rapid City
Pam Bollinger, Sioux Falls
Doug Herrmann, Rapid City
Sheriff Mike Leidholt, Pierre

One of the most significant accomplishments during the reporting period was the development of collocated juvenile detention center standards and the classification of areas of three rural jails – Codington, Day, and Walworth counties – as approved collocated juvenile detention ceters. This status provides these facilities latitude in holding delinquent offenders and CHINS who are in violation of a valid court order. Each of these facilities provided sight and sound separation of juveniles from adults and have to meet the staff training requirements to be classified as a collocated detention center.

The jails in Grants, Faulk and Edmunds County have been approved as 48 Hour Rural Jail Exception facilities which allow them to hold alleged delinquent offenders up to 48 hours or until the youth's temporary custody hearing.

Numerous jail and detention center site visits were made during the fiscal year to collect and verify data and to assess the facilities for collocated or 48 Hour Rural Jail status.

A system of data collection was developed and implemented. Calendar year 2002 juvenile admission data was collected and analyzed from eight juvenile facilities and 31 adult jails. This data was utilized to complete the 2002 Compliance Monitoring Report, which was submitted to the OJJDP. This data was for a time period prior to the compliance legislation taking effect and shows the state out of compliance with the DSO, jail removal and separation requirements.

Compliance data was also collected for 2003. This data is currently being analyzed in two distinct time periods – January-June and July-December – in order to assess the impact of the compliance legislation which took effect on July 1. While the data for the first half of the year shows the state to be out of compliance with the requirements of the Act, the data from the second half shows the state to be in *de minimis* compliance with DSO and jail removal and in full compliance with the separation requirement. De minims compliance rates were established by the OJJDP for use when: violations occur but are of a small number, do not reflect a pattern or practice, and violate state law.

The follow tables show the violation rates for data collected to date:

Deinstitutionalization of Status Offenders					
	2002 Violations	2003 January-June Annualized Violations	**2003 July-December Annualized Violations**	Full Compliance	**De minimis Compliance**
Number	115	60	**22**	0	**34**
Rate	56.75	30.67	**11.25**	0.00	**17.6**

At the 11.25 violation rate/100,000 under 18 population for the second half of 2003, South Dakota could be found in compliance with DSO under the *de minimis* exception. South Dakota would need to show that we adequately meet the following criteria: (1) noncompliant incidents violate state law and (2). An acceptable plan has been developed that is designed to eliminate the noncompliant incidents.

Jail Removal					
	2002 Violations	2003 January-June Annualized Violations	**2003 July-December Annualized Violations**	Full Compliance	**Substantive De minimis Compliance**
Number	291	172	**38**	17	**>17**
Rate	143.60	87.92	**18.40**	9.00	**>9.1**

At this violation rate, 18.40 for jail removal, South Dakota may meet the *substantive de minimis* standard if the following conditions are met:

1. State jail prohibits use of jail consistent with the jail removal standard;
2. All instances were in violation of state law;
3. The instances do not indicate a practice or patterns but rather constitute isolated instances;
4. Enforcement methods of state law are such that instances of noncompliance are unlikely to occur in the future;
5. An acceptable plan has been developed to eliminate noncompliant incidents and to monitor enforcement methods.

Sight and Sound Separation Violations					
	2002 Violations	2003 January-June Annualized Violations	**2003 July-December Annualized Violations**	**Full Compliance**	De minimis Compliance
Number	43	18	**0**	**0**	1
Rate	21.22	9.25	**0.00**	**0.00**	1.00

Utilizing the second half of 2003, South Dakota is in full compliance with the sight and sound separation requirement.

South Dakota's compliance status with the above referenced requirements will be utilized by the OJJDP to determine our eligibility for federal fiscal year 2005 funds.

5.2 Disproportionate Minority Contact

South Dakota completed the identification stage analysis of DMC for confinement phases of the juvenile justice system. Minorities, especially Native Americans, were found to be over-represented on a statewide basis and in some jurisdictions. Identification of DMC at other phases of the juvenile justice system (diversion, adjudication, and disposition) will be completed in fiscal year 2005.

Jail and detention center admission data and Department of Corrections data was presented to Mountain Plains Research to initiate the assessment phase of the DMC process. Summary arrest data was also provided. Minority youth had higher proportions of arrests for serious crime. Race was not statistically significant in explaining secure placement following aftercare revocation by DOC. Whites had the highest rate of secure confinement. Race was statistically significant related to secure/nonsecure confinement by DOC but it was tied for 15th of the 25 other statistically significant factors. The factors with the strongest correlation were age, disruptive behavior at school, truancy, delinquent acquaintances, and substance abuse. Detailed arrest and court will be provided to Mountain Plains Research in order to complete the assessment phase of the DMC process.

The Chairperson of the Council of Juvenile Services has appointed a DMC Committee to review the results of the DMC identification and assessment processes and to make recommendations to the Council on intervention strategies. The following individuals have been appointed to the DMC Committee:

Dave Nelson, Sioux Falls
Susan Randall, Sioux Falls
Cheryl Three Stars Valandra, Pine Ridge
Laura Dillon, Huron
Grant Walker, Gayville
Sean Gilmore, Pierre

Casey Murschel, Sioux Falls
Tim O'Daniel, Rapid City
Joy Smolnisky, Sioux Falls
Chepa Valandra, Ft. Thompson
Judge Jon S. Flemmer, Webster
Mike Brumbaugh, Aberdeen
Sheriff Ray Westendorf, Lake Andes
Bill White Lance, Custer
Eric Prince, Sioux Falls
Wes Garcia, Sioux Falls

5.3 Native American Pass Through

The Council of Juvenile Services has elected to utilize the South Dakota Coalition for Children's Tribal Advisory Group to solicit input on how to administer the Native American Pass Through process. The Tribal Advisory Group is comprised of multiple members of each of the Indian Tribes in South Dakota. The Tribal Advisory Group met in March of 2004 and has another meeting scheduled for July 15, 2004. Recommendations are to be made to the Council by October so that pass through funds can be made available beginning in January 2005.

5.4 Juvenile Justice System Improvement

The Council of Juvenile Services established a Systems and Services Committee to identify juvenile justice system improvements and to make recommendations on system changes and utilization of formula grant funds allocated to system improvement. The Chairperson of the Council appointed the following individuals to the Systems and Services Committee:

Judge Janine Kern, Rapid City
Sharon Sonnenschein, Pierre
Doug Thrash, Rapid City
Lindsay Ambur, Pierre
Dr. Jay Newberger, Sioux Falls
Alan McCoy, Rapid City
Joan Neilan, Sioux Falls
Karla Middlen, Sioux Falls
Tom Collins, Rapid City
Dexter Wittman, Rapid City
Kristi Bunkers, Sioux Falls
Senator Arlene, Rapid City
Tom Walsh, Alcester
Pat Jones, Rapid City
Gilbert Sudbeck, Pierre,
JC Chambers, Sioux Falls
Judge Merton Tice, Rapid City
Marlene Todd, Deadwood

Terry Dosch, Pierre,
Patty Vonsik, Sioux Falls
Mike Schad, Rapid City
Representative Quinten Burg, Wessington Springs
Kim Malsam-Rysdon, Pierre
Dr. Jerry & Nancy Tieszen, Sioux Falls
Darcy Jensen, Sioux Falls
Ted Williams, Redfield
Dr. Sophie Two Hawk, Eagle Butte
Andre Clayborne, Sioux Falls

The System and Services Committee began meeting in April 2004 and has had two additional meetings since then. While final recommendations from the Systems and Services Committee are due to the Council by October 2004, the following are some of the preliminary observations of the Committee to date:

Children and Family Services – Child Abuse and Neglect

- There is a need for more resource information to be available for families when they first start experiencing difficulties.
- There is a need for assessment and "Intensive Family Services" for children and their families upon first entry into the system (either through diversion or formal petition and probation) and who are at high risk of child maltreatment.
- Schools identify children at risk earlier than other service systems but there is a lack of consistent responses when these problems are first identified.
- South Dakota needs to explore the link between child abuse/neglect and delinquency.
- Develop family resource, assessment, referral centers, and services in order to provide resources to families when abuse and neglect issues are first identified (services may be provided by DSS or a private provider).

Need for Community Based Prevention and Early Intervention Programs/Services for Young Offenders

- There is a lack of centralized resources and services that includes a unified system of assessment.
- There is a need to catalogue and assess the effectiveness of diversion programs currently in operation and expand and develop funding streams for effective programs.
- Diversion programs should utilize a uniform assessment instrument.
- Develop child and family resource, assessment, and referral centers in order to provide resources to families when children first start to offend.
- Develop community-based multi-agency collaboration teams to work with families and youth to keep youth in the community and home.
- Consider pilot projects in areas with high per capita commitment rates of young offenders to reduce the number of young offenders committed to DOC.

Education

- There is a disproportionately high minority dropout rate.
- There is a need for a transition education program for youth returning to from correctional placement.
- The Social Worker in the School program should be expanded to additional elementary schools.
- Effective and developmentally appropriate truancy intervention programs at elementary, middle school and secondary levels should be developed.
- Develop culturally appropriate school completion programs for dropouts and those youth with poor attendance records.
- Access to alternative school services and school completion programs for youth in the juvenile justice system needs to be expanded.

Services for Children in Need of Supervision

- There is a need to develop a process to assess and provide more services to youth and families when the youth first enters the system as a status offender to prevent further penetration in to the system.
- There is a need to develop a process to provide intensive services to CHINS and their families to prevent out of home placement.
- Consider pilot projects in areas with high relative commitment rates per capita of CHINS to reduce DOC commitments of CHINS.
- Expand CHINS dispositional options for Judges to include residential treatment, therapeutic foster care, and inpatient alcohol and drug treatment.

Mental Health and Developmental Disabilities Services

- There is a lack of appropriate care for dual diagnosed children.
- There is a need to look at family assessments not just child assessments.
- Youth with mental health or developmental disability issues who need residential treatment are, at times, committed to DOC in order to provide a funding stream to cover the cost of care. Develop a system to cover the cost of residential treatment for youth with mental illness or developmental issues that does not involve the state taking custody of the youth.
- Reintegration services need to be provided to youth that return to the community from residential placement.
- Develop expanded wrap around services so youth with mental health or developmental disabilities do not need to be placed out of the home.
- Develop and implement evidence-based services, such as Functional Family Therapy and Multi-Systemic Therapy, in the community geared toward youth in the juvenile justice system.
- Provide training on evidence-based approaches to practitioners and educators.

Prevalence of Substance Abuse among Youth in the Juvenile Justice System

- There is a lack of services in rural areas.
- There is a need for case management services for alcohol and drug involved youth.

- There is a need for a family systems approach for treatment.
- There is a need for treatment services for dually diagnosed youth.
- Ensure that substance abuse service providers address family issues during treatment and continuing care.
- Ensure that case management, continuing care and transitional services are available for youth that complete inpatient treatment.
- Examine the need for methamphetamine specific treatment programs.
- Examine the need for inpatient residential programs in some geographic areas.

Fetal Alcohol Spectrum Disorder (FASD)

- There is a need to expand prevention efforts - public information campaigns; training for service providers – there is no remand process for pregnant women who drink.
- There is a lack of identification of FASD on a statewide basis – no systemic process to screen, evaluate and intervene.
- FASD prevention, screening, evaluation and services need to be addressed through a multi-agency collaborative approach that is sustained over an extended period of time.
- Training needs to be provided to those individuals and service providers who have contact with drinking mothers on how to effectively intervene.
- A screening instrument should be developed or adopted and be provided to service providers (diversion, Court Services, Department of Social Services) to be used to identify youth who may have FASD and to determine if an evaluation is needed.
- The availability and funding for FASD evaluations needs to be enhanced so that evaluations are provided in a timely manner.
- A training program needs to be developed for community-based and residential service providers on effective intervention and services for youth with FASD.

Section 6 - Key State Fiscal Year 2005 Activities

6.1 Compliance

July-September 2004

- Initiate a county reimbursement program for detention, shelter, holdover, transportation and electronic monitoring.
- File the 2003 Compliance Monitoring Report with the OJJDP.
- Conduct collocated juvenile detention center site visits.
- Establish a contract for holdover site and collocated juvenile detention center staff training.

October-December 2004

- Complete the Compliance Monitoring Manual.
- Conduct site visits of 48 Hour Rural Jail Exception Facilities.

January-March 2005

- Distribute and provide training on the Compliance Monitoring Manual.
- Collect 2004 admission data from detention centers and jails.

April-June 2005

- Complete and file the 2004 Compliance Monitoring Report with the OJJDP.
- Conduct data verification site visits to jails and detention centers.
- Continue to conduct compliance training as needed.

6.2 Disproportionate Minority Contact

July-September 2004

- Provide training to DMC committee members.
- Complete the identification phase of DMC utilizing the new “contact” standard.
- Provide jail and arrest data to Mountain Plains Research for the assessment phase of DMC.

October-December 2004

- Mountain Plains Research continues with DMC assessment.

January-March 2005

- The DMC Committee will receive and respond to initial findings of Mountain Plains Research

April-June 2005

- The DMC Committee will make recommendations to the Council of Juvenile Services on intervention strategies and programs to be funded with DMC formula grant funds.

6.3 Native American Pass Through

July-September 2004

- Tribal Advisory Group will hold their second meeting.

October-December 2004

- The Tribal Advisory Group will make recommendations to the Council of Juvenile Services on administration of Native American Pass Through funds.

January-March 2005

- Native American Pass Through funds will be made available to Indian Tribes.

April-June 2005

- Ongoing technical assistance will be made available to Indian Tribes as requested.

6.4 Juvenile Justice System Improvement

July-September 2004

- The Systems and Services committee will complete its recommendations to the Council of Juvenile Services on system changes, new programs, and programs to be funded with system improvement funds.

October-December 2004

- The Council of Juvenile Services will act on recommendations of the System and Services Committee. Actions may include funding of pilot projects, as well as forwarding program and system changes recommendations to executive branch agencies and the Unified Judicial System.

January-February 2005

- Make initial grant awards for pilot projects.

April-June 2005

- Conduct ongoing grant monitoring for projects funded.

Section 7.0 The Status of Children in Need of Supervision

South Dakota Codified Law 1-15-30, (8.) requires the Council of Juvenile Services to *"Make a special study of, and make an annual report to the Governor, the Unified Judicial System, and the Legislature by June thirtieth of each year concerning, the appropriate administration of and provision for children in need of supervision in this state*". It is the intent of the Council of Juvenile Services that this document satisfies this reporting requirement.

The Council of Juvenile Services recognized the importance of service provisions to CHINS and addressed this issue in the 2003-2005Three Year Plan. The following is an excerpt from that plan:

> ***Services for Children in Need of Supervision***
>
> *Children in need of supervision (status offenders) remain in the juvenile justice system and are committed to the Department of Corrections due, in some cases, to lack of appropriate and effective services in the community. In other cases, this is due to the unwillingness of families to access and utilize these services. Filing a CHINS petition and adjudication as a CHINS is utilized at times as a means to access services. Once a CHINS is adjudicated they are at risk of further penetration into the system and out of home placement. From FY'00 through FY'02 there were 163 CHINS committed to the DOC.*
>
> *Additional services need to be made available to CHINS and their families. Alternatives to incarceration and commitment to DOC for CHINS need to be developed and implemented. Circuit Court Judges need expanded dispositional authority and resources to utilize community based treatment options including residential and foster care programs.*

7.1 CHINS DATA

In 2002, South Dakota law enforcement agencies reported 2,792 status-related arrests, 35% of all youth arrests. Alcohol related offenses accounted for 1,905 of the status arrests, 24% of all youth arrests.

There are over 2,000 adjudicatory actions of CHINS and 1,200 non-adjudicatory actions for status-offending behavior. The most common CHINS offenses are alcohol consumption/possession, beyond parental control, and truancy.

The State of South Dakota has become concerned with juvenile status offenders that are committed to the Department of Corrections. Concern has been expressed about whether commitment to DOC is the appropriate process to provide residential services for status offenders. Concern has also been expressed whether status offenders and their families are receiving services that are appropriate in order to reintegrate the youth into the community after placement. The following information identifies CHINS commitments to DOC during calendar years 2000 to 2003 by race:

- In 2000, 60 juveniles were committed to DOC with a CHINS status. Of these commitments, 75.0% were White, 20.0% Native American, 0.0% Asian, 2.0% Black, 0.0% Hispanic, and 3.0% other.
- In 2001, 56 juveniles were committed with a CHINS status. Of these commitments, 68.0% were White, 23.0% Native American, 0.0% Asian, 2.0% Black, 0.0% Hispanic, and 7.0% other.
- In 2002, 47 juvenile commitments with a CHINS status. Of these commitments, 81.0% were White, 11.0% Native American, 2.0% Asian, 6.0% Black, 0.0% Hispanic, and 0.0% other.
- In 2003, 49 juvenile commitments with a CHINS status. Of these commitments, 63.3% were White, 30.6% Native American, 6.1% Asian, 0.0% Black, 0.0% Hispanic, and 0.0% other.

CHINS Commitments to DOC by Race and County (by Calendar Year)

	2000							2001							2002							2003						
	A	B	H	N	O	W	Total	A	B	H	N	O	W	Total	A	B	H	N	O	W	Total	A	B	H	N	O	W	Total
BEADLE	0	0	0	0	0	2	2	0	0	0	0	0	2	2	0	0	0	0	0	3	3	0	0	0	0	0	0	0
BENNETT	0	0	0	0	0	0	0	0	0	0	1	0	1	2	0	0	0	0	0	0	0	0	0	0	1	0	0	1
BON HOMME	0	0	0	0	0	1	1	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BROOKINGS	0	0	0	1	0	3	4	0	0	0	0	0	3	3	0	0	0	0	0	1	1	0	0	0	0	0	0	0
BROWN	0	1	0	0	0	1	2	0	0	0	1	0	3	4	0	0	0	1	0	0	1	0	0	0	0	0	0	0
BUTTE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	1	1
CHARLES MIX	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2
CODINGTON	0	0	0	0	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0	1	1	0	0	0	2	0	1	3
DAVISON	0	0	0	0	0	3	3	0	0	0	1	0	2	3	0	0	0	0	0	2	2	0	0	0	0	0	7	7
DAY	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	1	1
DEUEL	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DOUGLAS	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EDMUNDS	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
GRANT	0	0	0	0	0	1	1	0	0	0	1	0	0	1	0	0	0	0	0	1	1	0	0	0	0	0	0	0
HAMLIN	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HANSON	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HUGHES	0	0	0	4	0	3	7	0	0	0	3	0	3	6	0	0	0	1	0	2	3	0	0	0	0	0	0	0
KINGSBURY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1
LAKE	0	0	0	0	0	2	2	0	0	0	0	0	1	1	0	0	0	0	0	1	1	0	0	0	3	0	2	5
LAWRENCE	0	0	0	1	0	4	5	0	0	0	1	0	1	2	0	0	0	0	0	5	5	0	0	0	0	0	1	1
LINCOLN	0	0	0	0	0	1	1	0	0	0	0	0	1	1	0	0	0	0	0	1	1	0	0	0	0	0	1	1
LYMAN	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MEADE	0	0	0	0	0	6	6	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	3	3
MINNEHAHA	0	0	0	4	2	13	19	0	0	0	3	2	8	13	1	1	0	2	0	12	16	1	0	0	0	0	4	5
MOODY	0	0	0	1	0	1	2	0	0	0	1	0	1	2	0	0	0	0	0	0	0	1	0	0	0	0	1	2
PENNINGTON	0	0	0	0	0	1	1	0	0	0	1	0	1	2	0	0	0	0	0	0	0	0	0	0	2	0	2	4
PERKINS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
POTTER	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ROBERTS	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SPINK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0
TRIPP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	1	3
TURNER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	2	2
UNION	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	2	2	0	0	0	0	0	2	2
WALWORTH	0	0	0	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
YANKTON	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	2	0	1	0	1	4	1	0	0	2	0	1	4
Total	**0**	**1**	**0**	**12**	**2**	**45**	**60**	**0**	**1**	**0**	**13**	**4**	**38**	**56**	**1**	**3**	**0**	**5**	**0**	**38**	**47**	**3**	**0**	**0**	**15**	**0**	**31**	**49**

7.2 Systems and Services Committee Preliminary Findings and Recommendations on Children in Need of Supervision

The Systems and Services Committee has spent considerable time during their first three meetings discussing the complex *"CHINS issue"*. Status offenses occur within the context of the family, school and community systems. Many first time offenders will never re-offend. However, if effective interventions are not available for higher risk offenders when behaviors are first identified, the youth is at risk of further involvement in the juvenile justice system

Currently, there is no state agency responsible for prevention and early intervention for status offending behaviors.

Once an alleged status offender comes to the attention of the States Attorney or the Court, the child may be referred to a diversion program, such as teen court. If the child has needs which make them at risk for re-offending and if these needs are not addressed, it is probable that the behaviors will continue and possibly escalate.

If a CHINS petition is filed and the child is adjudicated, the most common disposition is probation. A Court Services Officers supervise CHINS on probation. If, in the opinion of the Judge, the youth needs out of home placement, the child is committed to the Department of Corrections until the child turns 21 unless discharged sooner by the Department of Corrections.

Preliminary Findings of the System and Services Committee concerning Children in Need of Supervision

- There is a need for more collaboration and information sharing between the Unified Judicial System, the Department of Social Services and the Department of Corrections.
- There is a need for more services for children and families when status-offending behavior is first exhibited.
- There is a need for initial assessment and provision of intensive family services for CHINS at the point of first entry into the system.
- There is a need for more services to CHINS to prevent out-of-home placement.

Preliminary Recommendations of the System and Services Committee concerning Children in Need of Supervision

- Develop a process to assess and provide more services to youth and families when the youth first enters the juvenile justice system as a status offender to prevent further involvement in the system.
- Develop a program to provide intensive services to CHINS and families to prevent out of home placement.
- Consider pilot projects in areas with high relative rates of CHINS commitment per capita to reduce DOC commitments of CHINS.
- Expand CHINS dispositional options for Judges to include residential treatment, therapeutic foster care, and inpatient alcohol and drug treatment.

7.3 Plan for FY2005

The Council will continue to deliberate on the subject of the *"administration of and provision of services for"* Children in Need of Supervision. More data collection and analysis and systems and programs research will be conducted in the next year in the following areas in order to develop specific recommendations for CHINS:

- Research how other states administer to status offenders.
- Explore the link between child protection issues, status offenders and delinquency.
- Document the needs of CHINS and their families and identify service gaps and barriers.
- Identify models of effective early community-based responses to status-offending behaviors.
- Implement a CHINS pilot project focused on prevention and/or early intervention.
- Further research and debate the issue of what state agency should be responsible for the administration of and provision of services for Children in Need of Supervision.

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