

Meeting Minutes
South Dakota Council of Juvenile Services

December 10, 2014

Holiday Inn Express, Fort Pierre, SD

Wednesday, December 10, 2014 - Missouri Room, Holiday Inn Express

Council of Juvenile Services Members Present: Carol Twedt, Chair; Mike Leidholt, Vice-Chair and Hughes County Sheriff; Nancy Allard, Director of Trial Court Services; Dadra Avery, School Counselor at Sturgis Brown High School; Becca Bedard, Youth Member; Austin Biers, Youth Member; Kim Cournoyer, Service Provider; Judge Jeff Davis, Seventh Circuit Court Judge and Pennington County JDAI Co-Chair; Doug Herrmann, Director of Juvenile Services; Jacob Kabrud, Youth Member; Amy Lake-Harmon, Brown County Juvenile Detention Center Administrator; Aaron McGowan, Minnehaha County State's Attorney; Beth O'Toole, Professor at the University of Sioux Falls; Betty Oldenkamp, CEO of Lutheran Social Services; Lyndon Overweg, Mitchell Chief of Public Safety; and Virgena Wieseler, Director of Division of Child Protection Services.

Council of Juvenile Services Members Absent: Judge Karen Jeffries, Cheyenne River Sioux Tribe Judge; Sara McGregor-Okroi, Aliive-Roberts County; and Marissa Surrounded, Youth Member.

Others Present: Liz Heidelberger, South Dakota Statewide JDAI Coordinator; Jim Seward, General Counsel for South Dakota; Sadie Stevens, Legal Intern at the Governor's Office; Kevin McLain and Bridget Coppersmith, South Dakota Department of Corrections (DOC); and Bob Mercer, Associated Press.

1. WELCOME, INTRODUCTIONS AND AGENDA REVIEW

Chair Carol Twedt welcomed everyone to the meeting at 10:00AM on December 10, 2014 and introductions were made. Chair Twedt explained that appointments had been made since the last meeting and that Grant Walker, Vic Erlacher, Liz Heidelberger, and Arlene Ham Burr were no longer members of the Council and that Dadra Avery, Austin Biers, and Amy Lake-Harmon are the new members that the Governor appointed this year. Chair Twedt added that Aaron McGowan, Becca Bedard, and she were reappointed for another term this year. Bridget Coppersmith explained that Robyn Seibel, who was at previous Council Meetings as staff support from the South Dakota Department of Corrections (DOC), has accepted a position at the South Dakota Lottery with the Department of Revenue and that Heather Van Hunnik will start her position as a Corrections Specialist who oversees Compliance Monitoring and Disproportionate Minority Contact on December 24th.

2. APPROVAL OF SEPTEMBER 2014 MEETING MINUTES

Lyndon Overweg moved to approve the September 2014 meeting minutes, Aaron McGowan seconded. Motion carried unanimously.

3. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP) AND THE PRISON RAPE ELIMINATION ACT (PREA)

Kevin McLain provided an overview of the Prison Rape Elimination Act (PREA) and explained how it is impacting South Dakota. McLain stated that Congress passed the Prison Rape Elimination Act (PREA) in 2003 with unanimous votes of both houses of Congress and that the act was intended to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions. McLain explained that the National Prison Rape Elimination Commission published a final draft of standards in 2009 and that the Department of Justice (DOJ) published the final rule in the Federal Register in June 2012 after they were available for public comment. The final rule became effective in August 2012. McLain

added that a state whose governor does not certify full compliance with the standards is subject to the loss of five percent of any DOJ grant funds that it would otherwise receive for prison purposes unless the governor elects to submit an assurance that the state will use the five percent only to achieve and certify full compliance with the standards in future years. McLain noted that the Formula Grants Program is subject to this requirement. McLain added that since none of the required audits of South Dakota facilities had been completed due to a lack of trained auditors, Governor Daugaard submitted an assurance that the state would use five percent of DOJ grant funds to support compliance

Discussion ensued concerning the governors' letter of certification to be sent in May 2015, the history of the act, the standards, the cost of audits, the financial impact of being in compliance, and the status of South Dakota facilities.

Approval of PREA Subgrant Applications - Bridget Coppersmith explained that the PREA funding for subgrants comes out of South Dakota's 2014 Formula Grant Award and is five percent of the portion of the award that a state is allowed to utilize for administration purposes. Coppersmith added that a bonus amount was added from the removal of five percent from states and territories that lost their five percent reduction rather than utilizing the funds to work toward coming into compliance with PREA. The combination of the five percent reduction and the bonus amount made \$6,804 available for applicants to apply for. Coppersmith provided an overview of the applications received from Lutheran Social Services (LSS) New Beginnings Center in Aberdeen and Volunteers of America (VOA) Group Care in Sioux Falls. Coppersmith explained that LSS New Beginnings Center applied for the funds to be used to install a visual only camera system and that the VOA Group Care applied for an audit of their facility. Coppersmith added that it is the recommendation of the staff at the DOC to use the Formula Grant PREA funds in the amount of \$6,804 to award a subgrant to VOA Group Care and for the Council to support the DOC in using Juvenile Accountability Block Grant (JABG) interest money to award a subgrant to LSS New Beginnings Center as the DOC saw value in each application and both funding sources do not contain a match. Coppersmith added that a majority of the JABG interest money needs to be spent prior to the end of January 2015 which would be more in line with the LSS New Beginnings Center application of purchasing equipment as setting up and conducting an audit takes several months.

Discussion ensued concerning PREA audits and the need for an audio component to be added to the security camera system at LSS New Beginnings Center.

Sheriff Mike Leidholt moved award the VOA Group Care application using Formula PREA funds. Lyndon Overweg seconded. Motion carried with Betty Oldenkamp and Kim Cournoyer abstaining.

Judge Jeff Davis moved to support the Department of Corrections plan to fund LSS New Beginnings Center's application for a camera system utilizing JABG interest funds and suggested that the department work with New Beginnings Center to add an audio monitoring component if feasible. Beth O'Toole seconded. Motion carried with Betty Oldenkamp and Kim Cournoyer abstaining.

4. APPROVAL OF LOWER BRULE NATIVE AMERICAN PROGRAMS APPLICATION

Coppersmith explained that the Council approved for the Lower Brule Sioux Tribal Court to implement a horse therapy program in June and that due to unforeseen circumstances, the program can no longer be implemented during the grant time frame. Coppersmith provided an overview of an amendment application that Lower Brule Sioux Tribal Court submitted to utilize grant funding to hire a consultant to assist in writing policies and procedures to aid in implementing a 24 hour youth shelter. Coppersmith added that the DOC has reached out to their representative at OJJDP to see if they could provide any technical assistance.

Discussion ensued concerning the cost of hiring a consultant, similar programs across the state and on reservations, where support for the ongoing operation would come from, and the need to develop a work plan.

Betty Oldenkamp moved to deny the amended application and encourage Department of Corrections staff to work with Lower Brule Sioux Tribal Court to develop and submit a detailed work plan to be brought before the Council Executive Committee. Judge Jeff Davis Seconded. Motion carried unanimously with Kim Cournoyer abstaining.

5. APPROVAL OF THE SFY2014 ANNUAL REPORT

Coppersmith explained that the content and layout of the SFY2014 Annual Report is complete with the exception of a few data components. Coppersmith added that the complete publication will be done in time for distribution early in the legislative session. Coppersmith stated that at the September Council Meeting, Judge Karen Jeffries, Doug Herrmann, Virgena Wieseler, and Nancy Allard volunteered to review the report prior to printing the publication and they along with staff will review the annual report prior to print.

Discussion ensued concerning the benefit of the layout and the distribution plan of the report.

Lyndon Overweg moved to approve the SFY2014 Annual Report with the understanding that it will be reviewed prior to print and that minor changes may be made. Doug Herrmann seconded. Motion carried unanimously.

6. BUDGET STATUS REPORT

Coppersmith provided an overview of the budget status of the FFY2011 Formula Grant Award. Coppersmith explained that as of December 1, 2014 there was a remaining balance of \$290,983 which is expected to be fully expended by the award end date of September 30, 2015. Coppersmith noted that \$60,000 can be moved internally between program areas which will aid in spending down the award since Native American Programs is already negative. Coppersmith added that this is the last award of \$600,000 before the Formula Grant Awards drop to \$400,000 per year. Coppersmith added that as part of the delinquency prevention program area, the staff of the DOC is planning to have a Positive Action overview training in conjunction with the June Council Meeting. Coppersmith explained that the training would include presentations from sites currently implementing Positive Action under the Formula Grant Program and that funds would be made available for curriculum through a subgrant process to jurisdictions interested in implementing Positive Action in their school systems.

7. APPROVAL OF FFY2015 THREE YEAR PLAN: COUNCIL VALUES AND PROBLEM STATEMENTS

Chair Twedt turned the meeting over to Vice-Chair Sheriff Mike Leidholt to walk through the Council Values and Problem Statements. Vice-Chair Sheriff Leidholt explained that the values and statements have come a long way since they were first developed and that in recent years there have been minor changes.

Discussion ensued over possible changes to the values. The first recommended amendment was to add "consistent with the needs of the child" to have the value read "all children shall receive evidence-based services consistent with the needs of the child in the least restrictive community based environment available". The second recommended amendment was to change the value that read "all children, parents, communities, and the juvenile justice system shall demonstrate accountability in the development of a plan for the youth" to read "all children, parents, communities, and the juvenile justice system shall demonstrate accountability in the development and provision of services for youth". The final recommended amendment changed the value "all children shall receive equal justice regardless of race, which is essential to effectively address Disproportionate Minority Contact" to "all children shall receive culturally appropriate justice which is essential to effectively address Disproportionate Minority Contact".

Nancy Allard move to adopt the Council Values as amended. Doug Herrmann seconded. Motion carried unanimously.

Discussion ensued concerning the problem statements and staff direction was given to separate the last problem statement into two statements to address alternatives to detention and delinquency prevention prior to the March Council Meeting.

Chair Twedt moved to direct staff to split the final problem statement for review at the March Council Meeting and that the remaining problem statements remain the same. Judge Jeff Davis seconded. Motion Carried Unanimously.

Vice-Chair Sheriff Leidholt turned the meeting back over to Chair Twedt.

8. JUVENILE JUSTICE UPDATES

Betty Oldenkamp explained that the Functional Family Therapy program associated with Disproportionate Minority Contact in Minnehaha County kicked off the morning of December 10, 2014 and that seven therapists are being trained in Sioux Falls, Brookings, Aberdeen, and Rapid City and will start with caseloads after training is complete. Oldenkamp added that the caseload of each therapist is fifteen cases and that each case will last between eight and twelve weeks. Chair Twedt noted that former Council Member Judge Janine Kern has been appointed to the South Dakota Supreme Court.

9. NEXT MEETING LOCATION AND DATES

Coppersmith explained that calendars were sent in the mailing for each member to have input on which dates they would be able to meet on in 2015. Coppersmith stated that the March meeting will be over the Digital Dakota Network (DDN), the June meeting is expected to be in conjunction with a Positive Action training and be two days in a location where lodging and accommodations can be met for a large group at state rate, the September meeting will be two days in Custer and will include a tour of the campuses that make up STAR Academy, and that the December meeting will be one day and either in Oacoma or Pierre.

10. JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI) PRESENTATION

Coppersmith explained that in 2009, the Council determined that it was in the best interest of the youth of South Dakota to pursue strategies that promote the examination of local juvenile justice systems and help them coordinate a comprehensive continuum of system services and alternatives to secure detention. Coppersmith state that the Juvenile Detention Alternatives Initiative (JDAI), developed and supported by the Annie E. Casey Foundation, was identified as the model through which these goals would be undertaken and that the Council identified Minnehaha and Pennington Counties as alternative to detention pilot sites. Coppersmith noted that at the Council's June 2013 Meeting, the Council approved for JDAI to be implemented under the Unified Judicial System and Liz Heidelberger, formally the Pennington JDAI Coordinator and Council Member, was hired as the Statewide JDAI Coordinator.

Liz Heidelberger, South Dakota Statewide JDAI Coordinator, presented an overview of the progress of JDAI in South Dakota since June 2013. Heidelberger explained that statewide expansion is different from implementing in one jurisdiction due to the rural nature of South Dakota and that expansion needs to be more creative to implement with fidelity to the model while doing what is best for the location. Heidelberger noted that JDAI is currently being implemented in Lincoln, Minnehaha, and Pennington Counties which consist of 39.6% of the state population of youth ages 10-17. Heidelberger explained that to go statewide, she is looking at one core strategy of the model at a time verses picking new sites and implementing for three years at a time in order to keep the momentum moving forward across the state. Heidelberger noted that the presiding judges in South Dakota unanimously agreed to move forward with a Supreme Court Rule requiring the use and completion of the Risk Assessment Instrument (RAI) at the point of intake by detention center staff. Heidelberger added that the rules hearing is scheduled for the end of January 2015. Heidelberger explained that by looking at data collected by using the RAI, jurisdictions will be able to have a better picture of the youth in their jurisdiction and which alternatives to detention might best serve them. Heidelberger added that Butte and Lawrence Counties are moving forward with

JDAI implementation and that with the addition of those two counties, JDAI will be implemented with 43.2% of South Dakota youth ages 10-17.

Discussion ensued concerning the completion of the RAI at detention centers, coordination of JDAI, the override rate of the RAI, data collection, ways of funding alternatives, and the importance and success of JDAI.

11. ELECTION OFF CJS CHAIR AND VICE-CHAIR

Chair Twedt turned the meeting over to Coppersmith to oversee the annual election of the Council Chair and Vice-Chair. Coppersmith explained that the Council Chair cannot be a full time government employee and that the elected Chair and Vice-Chair will start their term following the adjournment of the meeting. Coppersmith noted that Chair Twedt has requested not to be nominated for Chair or Vice-Chair.

Judge Jeff Davis nominated Betty Oldenkamp for Council Chair and Sheriff Mike Leidholt as Council Vice-Chair. Chair Twedt seconded. Motion carried unanimously.

Coppersmith turned the meeting back over to Chair Twedt.

12. JUVENILE JUSTICE REINVESTMENT INITIATIVE PRESENTATION

Jim Seward, General Counsel for South Dakota, presented an overview of the South Dakota Juvenile Justice Reinvestment Initiative and the findings of the work group. Seward explained that the major findings of the work group's analysis of juvenile populations in the custody of the DOC and under the supervision of Unified Judicial System (UJS) included the following: court diversion is used inconsistently across the state; seven out of ten DOC commitments are for misdemeanor offenses, Children in Need of Supervision (CHINS) violations, and probation violations; fewer youth are being committed to DOC, but are staying longer which does not always result in better outcomes; admissions to probation are declining but are increasingly lower risk youth; the length of probation supervision is increasing; and evidence-based interventions for juvenile offenders are not sufficiently available in the community. Seward added that the work group developed recommendations trying to find ways to create dollars to reinvest in community based alternatives. Seward noted that some of the recommendations include establishing presumptive probation and Community Alternatives Response Teams (CARTs), decreasing lengths of stay in the DOC, increasing the use of diversion, capping the duration of probation at four months, ensuring access to effective interventions for youth in rural areas, developing a Native American pilot program, and designating certain offenses as ticketable offenses to be processed similar to municipal curfew and tobacco violations. Seward explained that should the legislature pass the reforms that are recommended by the workgroup, the projections show that in five years there would be a 64% reduction in the number of children committed to the DOC.

13. WRAP-UP AND ADJOURN

At 2:32 PM, Aaron McGowan moved to adjourn, Judge Jeff Davis seconded. Motion carried unanimously.

Recorded by Bridget Coppersmith, Juvenile Justice Specialist