

# State of South Dakota Council of Juvenile Services

## State Fiscal Year 2012 Annual Report

### Council of Juvenile Services Members at the close of State Fiscal Year (SFY) 2012:

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The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author and do not necessarily reflect the views of the Department of Justice.

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### Message from the Chairperson:

The Council of Juvenile Services oversees the State's participation in the Juvenile Justice and Delinquency Prevention Act Formula Grants Program and is required to make an annual report to the Governor and Legislature on the State's progress in meeting the requirements of the Juvenile Justice and Delinquency Prevention Act (JJDP A) of 1974, as amended. The Council is also responsible, pursuant to SDCL 1-15-30(8), for making an annual report to the Governor, Chief Justice and the Legislature on the status of Children in Need of Supervision. This document serves to meet both of these reporting requirements.

The Council of Juvenile Services has worked diligently over the past nine years to enhance juvenile justice services in the state and prides itself in the following value statements which guide their work in assisting the State in meeting the requirements of the Formula Grants Program and in making improvements to South Dakota's juvenile justice system. The Council of Juvenile Services values that all children shall:

- receive developmentally and culturally appropriate services.
- have the same access to needed services regardless of income, geography, race, or jurisdiction.
- have the right to be safe in the community in which they live.
- receive evidence-based services in the least restrictive community-based environment available.
- demonstrate accountability in the development of a plan for the youth along with parents, communities, and the juvenile justice system.
- receive early intervention services that are evidence-based.
- receive services that are family-based and family-centered.
- receive equal justice regardless of race, which is essential to address Disproportionate Minority Contact effectively.
- have access to early and effective legal representation, including an assessment of competence and a timely and just legal process.

The following pages of the Annual Report are a condensed summary of the accomplishments over the past year. I believe you will be proud of the critical and relevant work that has been done in our State since South Dakota came into compliance with the JJDP A in 2003, along with the progress of the Alternative to Detention sites in Minnehaha and Pennington Counties. Furthermore, Federal Fiscal Year 2012 Formula Grant and Juvenile Accountability Block Grant applications were submitted and approved by the Office of Juvenile Justice and Delinquency Prevention. These two grants will provide \$552,029 for juvenile justice planning and projects in South Dakota for the next few years. If you find you would like more information regarding the Council's achievements over the past years or regarding the Formula Grant Program, please review the comprehensive Three-Year Plan located electronically on the Department of Corrections webpage: [doc.sd.gov](http://doc.sd.gov).

I thank you for your support and I look forward to working with you on behalf of South Dakota's children.

Very Best Regards,

*Carol Twedt*

Carol Twedt, Chairperson

# Formula Grant Expenditures and Programs

The table below outlines the amount of federal fiscal year (FFY) 2008 and FFY2009 Formula Grant funds that were utilized during SFY2012 and the number of youths served by the funds in each program area.

Program Area	SFY12	Youths Served
Compliance	\$31,020.62	N/A
Deinstitutionalization of Status Offenders (DSO)/ Sight and Sound Separation/ Jail Removal	\$80,187.61	459
Disproportionate Minority Contact (DMC)	\$78,387.55	265
Planning and Administration	\$27,647.23	N/A
Council of Juvenile Services	\$23,147.73	N/A
Native American Programs	\$64,072.09	555
Alternatives to Detention	\$110,196.35	316
<b>Total</b>	<b>\$414,659.17</b>	<b>1,595</b>



## Compliance, DSO, Jail Removal, and Separation

A compliance monitoring system has been developed and implemented to monitor the State's compliance with the core requirements of the Formula Grants Program. This system classifies facilities where youths can be held pursuant to court authority, collects admission data from secure facilities, conducts site visits, and provides technical assistance.

In calendar year (CY) 2011, South Dakota's DSO violation rate was 1.52/100,000 youths, which places the State in full compliance. A DSO violation rate of 29.5 or higher would mean that the State would be noncompliant with the DSO requirement. There were no jail removal violations in CY2011. The jail removal violation rate of 0.00/100,000 youths means the State is eligible for a determination of full compliance with the jail removal requirement. There were no separation violations in CY2011; therefore, South Dakota is eligible for a finding of compliance.

Meeting the temporary custody needs of juveniles consistent with the JJCPA can be a financial burden on county governments. The Council of Juvenile Services (Council) authorized the development of a reimbursement system utilizing Formula Grant funds to provide financial support to counties. Since 2005, a reimbursement system has been in place to provide financial support to counties or arresting entities that lack appropriate temporary custody options for the youth. It has been the goal of the Council to work with counties to eventually decrease their dependence on the reimbursement program and to help them develop alternatives to detention and alternative funding sources. During SFY2012, a total of \$80,187.61 was reimbursed to 14 local governments for services rendered for serving a total of 459 youth.

## Disproportionate Minority Contact

As a part of the Disproportionate Minority Contact (DMC) requirement, states are responsible for ongoing monitoring of the juvenile justice system for overrepresentation of minority youths for any group that comprises at least 1% of a jurisdiction's juvenile population. The staff of the Formula Grants Program is responsible for compiling the DMC data, presenting DMC findings to stakeholders, developing plans to address DMC within the state, overseeing DMC awards, and working with local entities to develop plans for disproportionate minority contact reduction.

In South Dakota, minority youths make up 22.1% of the population, which breaks down as American Indian (13.6%), Hispanic-for any race (4.8%), Black (2.6%), and Asian (1.1%). The most recent DMC data compiled to date reflects the measurement of juvenile justice system activity from CY2009. The stages with the largest disparities include arrest and commitment to the Department of Corrections.

In SFY2012, The Council supported three pilot sites which included Minnehaha County (Hocoka Truancy Diversion program and Positive Indian Parenting classes), Pennington County (Juvenile Services Center Talking Circles), and Roberts County (Gang Reduction Program and Mentoring).

In addition to the support of these interventions, the Council of Juvenile Services worked to realign funding under the DMC Program to support Alternatives to Detention projects that focused on specifically on strategies for minority youths.

# Planning and Administration

As the state agency designated by the Governor to administer juvenile justice funding, the staff of the South Dakota Department of Corrections (DOC) provides support for the Council and its committees, administers and monitors juvenile justice grant funds, collects juvenile justice system data, and monitors facilities for compliance with the core requirements of the JJDPA. In SFY2012, a total of \$27,647.23 was spent in the program area of Planning and Administration to support time allocated toward the Council and Formula Grant activities for two full time DOC staff members and an intern.

## Council of Juvenile Services

The Council was created by Senate Bill 8 in the 2003 Legislature (codified as SDCL 1-15-30) to fulfill the responsibilities of a state advisory group (SAG) as directed by Section 223(a)(3) of the JJDPA. SFY2012 represents the ninth year of the State's renewed participation in the Formula Grants Program.

The Council reviews juvenile justice policy, advises and advocates on juvenile justice issues, and strives to keep South Dakota in compliance with the requirements of the Formula Grant Program authorized by the federal JJDPA. The Council meets quarterly and is comprised of members who are appointed by and serve at the pleasure of the Governor. SDCL 1-15-30 outlines the responsibilities of the Council. In SFY2012, the Council met four times and approved the Formula Grant State Three-Year Plan and Juvenile Accountability Block Grant Applications. The State Three-Year Plan can be found on the DOC Grant webpage at [doc.sd.gov/about/grants](http://doc.sd.gov/about/grants).

The Council provides funding for the Juvenile Justice Tribal Advisory Group (TAG). The TAG provides Native American perspective and expertise to assist the Council in meeting the requirements of the JJDPA and provides communication between the Tribes and Council to assist Tribes in their juvenile justice initiatives. Representatives from all nine Tribes of South Dakota and representatives from various agencies that work with the Tribes participate in the TAG meetings. In SFY2012, TAG met a total of two times.

The Council also renewed its membership with the Coalition for Juvenile Justice (CJJ) in SFY2012. CJJ, developed in 1984, has served as the national association of governor-appointed SAGs. CJJ continues to amplify the voice of the SAGs with the federal administration and the Congress; to inform and support juvenile justice system reforms and improvements across the nation; and to provide strong and valuable recommendations, fact sheets, guidance, training, news and position papers on the salient juvenile justice issues of our time. CJJ focuses on advancing the reauthorization of the JJDPA and strengthening federal juvenile justice appropriations. South Dakota's SAG, the Council, has been a member of CJJ since 2007.

## Native American Programs

The Formula Grants Program requires participating states to pass on a specified portion of their funds to Native American Tribes who provide their own law enforcement. The amount South Dakota was required to pass on in FFY2012 is \$35,929. States may allocate additional funds beyond the minimum and may also provide funds to Tribes which do not have law enforcement responsibilities but which conduct other juvenile justice functions.

The total amount allocated to the Native American Pass-Through program by the Council of Juvenile Services exceeds the minimum pass-through amount set by OJJDP. The Council allocated \$75,000 in SFY2012 for three \$25,000 grants for The Cheyenne River Sioux Tribe, Sisseton Wahpeton-Oyate, and Standing Rock Sioux Tribe. All three Tribes used the grant to support a juvenile probation officer.

# Alternatives to Detention and Children in Need of Supervision

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. Goals of the Council in pursuing alternatives to detention include to:

- Reduce the juvenile incarceration rate;
- Reduce disproportionate minority contact for the youth involved in the state juvenile justice system;
- Improve compliance with the JJDP A;
- Provide an opportunity to reduce the reliance on the use of the valid court order exception to the deinstitutionalization of status offender requirement; and
- Allow facilities and the community to collaborate to improve the conditions of confinement.

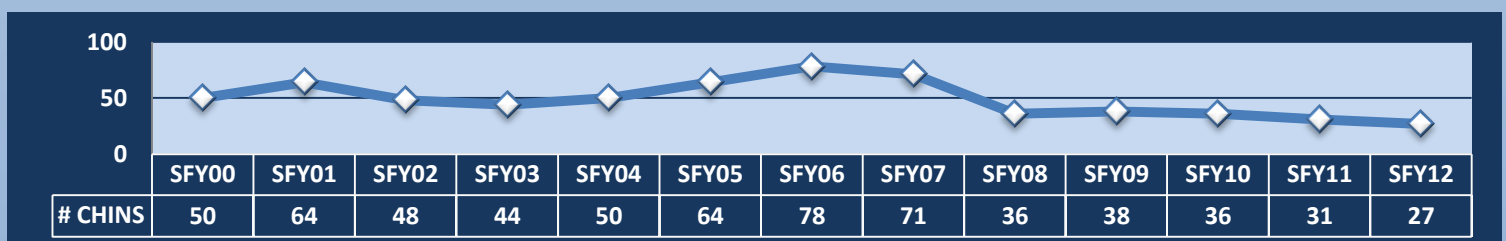
The Juvenile Detention Alternatives Initiative (JDAI), developed and supported by the Annie E. Casey Foundation, was identified as the model through which these goals would be undertaken. The Council identified Minnehaha and Pennington Counties as potential alternative to detention pilot sites. After meetings with key stakeholders, local alternatives to detention Steering Committees were formed in both of the communities and allocations were set aside to help provide staff support in the jurisdictions in order to implement the model in these two communities.

In SFY2012, the JDAI Coordinators, along with the Minnehaha and Pennington County Steering Committees, continued to implement alternatives to detention to decrease the number of South Dakota youths being held in secure detention. Through the use of the risk assessment instrument to appropriately place youths, local alternatives to detention, and collaboration with stakeholders, enhancements were made to the juvenile justice processes in these communities. Proposals for funding alternatives to detention at both sites were reviewed and approved by the Council in December 2011, with implementation starting in January 2012.

The alternative to detention pilot sites made special study of the various juvenile intervention, prevention, treatment, and rehabilitation programs in their counties and found a lack of programs for pre-adjudicated youths. As a result, each site implemented an Evening Report Center to provide opportunities for youths to learn and develop social and life skills for youth while remaining in the community. The pilot sites also made study of the juvenile sentencing, adjudication, and diversion policies and provisions in their counties and implemented Court Expeditors and Reception Centers which are used to gather information concerning the youth's risks and needs so an informed decision can be made efficiently in the best interest of the youth.

As part of the JDAI process, a statewide risk assessment instrument (RAI) was developed to place youth in the appropriate least restrictive placement. Five hundred youths were tested with the RAI prior to full implementation. The test resulted in only four of the five hundred youths being placed in secure detention. Of the Children in Need of Supervision (CHINS) tested, the top offense was runaway. CHINS are low risk and high need youths who are often placed in secure detention or committed to the DOC due to a lack of appropriate alternatives. There is concern whether commitment to the DOC is the appropriate manner in which to provide residential services to CHINS. Throughout the state, a team serves to develop placement plans to use the least restrictive options for a CHINS committed to the DOC

The following chart was obtained from the DOC and identifies CHINS commitments to the DOC during SFY2000 through SFY2012. The chart shows that there has been a significant decrease in the commitment of CHINS following efforts to bring the state into compliance with the JJDP A.



# Compliance with the Core Requirements

The JJDP, as amended, establishes four core requirements with which participating states and territories must comply in order to receive juvenile justice funding under the JJDP:

- (1) Deinstitutionalization of Status Offenders (DSO) - Refers to the removal of status offenders and non-offenders from secure juvenile detention and correctional facilities, jails and lockups for adult offenders.** Juveniles charged with status offenses, offenses which would not be criminal if committed by an adult, should not be placed in secure detention or correctional facilities. Abused, dependent, or neglected youths may never be held securely.
- (2) Sight and Sound Separation - Refers to providing separation between adults and juveniles in secure settings.** During the temporary period of time in which juveniles may be held in an adult jail or lockup for processing, they need to be kept sight and sound separated from adult offenders.
- (3) Jail Removal - Refers to the removal of juveniles from adult jails and lockups.** Juvenile offenders shall not be securely detained in adult jails or police lockups.
- (4) Disproportionate Minority Contact (DMC) - Refers to the reduction of minority over-representation where it exists within the juvenile justice system.** States must address over-representation of minority youths at different decision points of contact within the juvenile justice system. The DMC process is made up of identifying the existence/extent of disproportionality, accessing data about DMC, intervening to reduce DMC, evaluating how DMC responds to the interventions, and monitoring trends in DMC within and across jurisdictions.

The status of compliance in CY2011 has decreased significantly since CY2002. In CY2011, there were three DSO violations which is a 97.4% decrease since CY2002. There were no violations in Jail Removal and Separation resulting in a 100% decrease.

Percentage Change of Reported Compliance Monitoring Violations			
Calendar Year	DSO Violation	Jail Removal Violations	Separation Violations
2002	115	291	9
2011	3	0	0
<b>Percent Change</b>	97.4%	100%	100%

## Children in the Juvenile Justice System

South Dakota's juvenile justice system impacts thousands of youths and their families annually. The table to the right provides a summary of juvenile justice, child protection activities, and alcohol and drug services provided by the Unified Judicial System (UJS) and referenced in the 2003-2012 South Dakota Kids Count Factbook Publications.

	SFY03	SFY04	SFY05	SFY06	SFY07	SFY08	SFY09	SFY10	SFY11	SFY12
<b>UJS Referrals</b>										
<i>Adjudicated</i>	5,693	5,490	5,710	5,970	6,129	6,491	6,085	6,129	5,525	4,868
<i>Non-Adjudicated</i>	1,978	782	1,180	1,511	2,272	2,279	1,729	1,074	984	1,090
<b>New DOC Commitments*</b>	384	352	368	379	355	376	360	350	304	284
<b>Child Abuse &amp; Neglect Initial Assessments (children)</b>										
<i>Substantiated</i>	9,664	8,748	7,729	7,476	6,377	6,971	7,249	7,243	7,282	6,820
<i>Unsubstantiated</i>	5,309	2,445	1,485	1,701	1,769	2,337	2,283	2,124	2,149	1,927
<b>Alcohol and Drug (juvenile admission to treatment) **</b>	4,355	6,303	6,244	5,775	4,608	4,634	4,966	5,119	5,133	4,893
	3,143	3,029	2,456	1,992	1,790	1,681	1,271	1,605	1,375	1,288

\* DOC commitment data provided by the DOC from Juvenile COMS data system implemented on 6/23/2011. Data only accounts for the number of new juveniles who receive a disposition of commitment to DOC. These numbers do not include youths already under the jurisdiction of the DOC.

\*\*Starting with SFY2006, a new information system was implemented, which provided unduplicated counts.

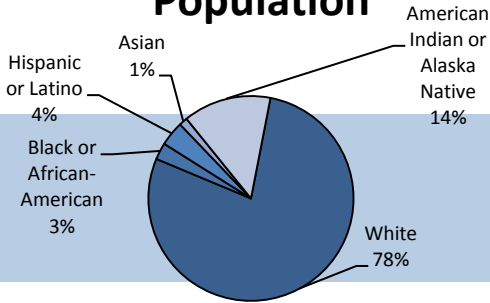
**Adjudicated Action** - action that occurs as the result of the filing of a CHINS or delinquent petition in formal court. These actions include petition sustained, petition not sustained, petition dismissed, suspended imposition of adjudication, transfer to adult court, and interstate compact transfer to South Dakota.

**Non-Adjudicated Action** - action that is referred to another agency or handled by court services as an informal diversion as an alternative to adjudication. The non-adjudicatory actions do not include those diversions initiated by State's Attorneys.

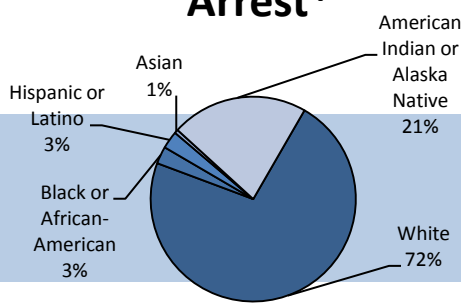
# DMC Data

Minority youths, primarily American Indian, are over-represented at most stages of South Dakota's juvenile justice system. In CY2009, minority youths made up 22% of the total youth population in South Dakota but 28% of those arrested\*, 44% of those in detention, 34% of those adjudicated, 33% of those on probation, and 45% of new DOC commitments. The following charts summarize breakdown by race at the stages of the state juvenile justice system as detailed in the 2012 Formula Grant Application. When looking at the offenses for youths committed to the DOC during the same period, Property Crimes (27.0% for all youths and 23.9% for Native American Youths) are the largest number of offenses. When looking at the offenses for youths arrested by law enforcement during 2009, Property Crimes (26.8%) have the largest number of offenses for all youths while Alcohol Offenses have the largest number for Native American Youths.

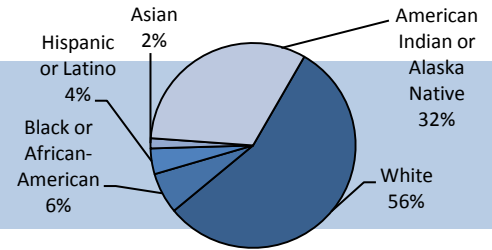
### Population



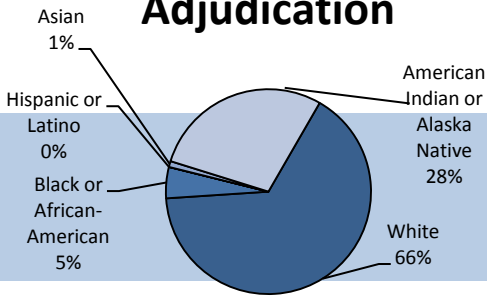
### Arrest\*



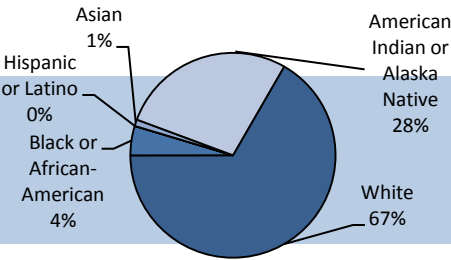
### Detention



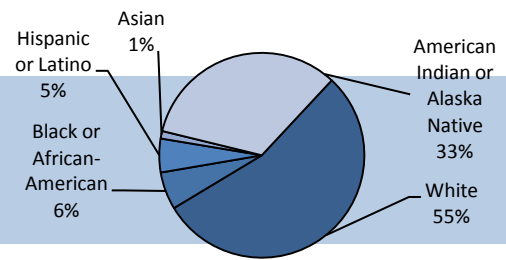
### Adjudication



### Probation



### DOC Commit



### DOC Commitment in Calendar Year 2009

Crime	All	Native	White
Person	8.1%	8.4%	7.1%
Property	27.0%	23.9%	27.9%
Sex	2.9%	2.8%	2.7%
Drug	12.3%	10.2%	14.0%
Alcohol	9.0%	15.5%	6.6%
Status (except alcohol)	10.2%	10.9%	10.2%
Probation Violation	19.4%	15.5%	21.2%
Public Order	10.4%	11.5%	9.7%
Other	0.8%	1.3%	0.6%

Note: Accounts for multiple crimes

### Arrest\* in Calendar Year 2009

Crime	All	Native	White
Person	8.1%	11.0%	6.6%
Property	26.8%	23.0%	28.4%
Sex	0.5%	0.4%	0.6%
Drug	9.2%	7.6%	10.0%
Alcohol	26.4%	31.3%	25.5%
Status (except alcohol)	12.5%	14.0%	10.9%
Public Order	6.4%	5.7%	6.6%
Other	10.0%	7.1%	11.4%

Note: Accounts for most serious crimes

\*In SD, arrest of a juvenile is defined as taken into temporary custody by law enforcement.

# JDAI Data

With the implementation of Alternatives to Detention in Minnehaha and Pennington Counties, both sites have seen significant changes in their detention numbers. Some of the most significant decreases can be seen in the average daily population (per day decrease of 11 juveniles in Minnehaha and 3 juveniles in Pennington), annual admissions (25% decrease in Minnehaha and 10% decrease in Pennington), average length of stay for youths of color (3% decrease in both Minnehaha and Pennington), and DOC Commitment (49% decrease in Minnehaha and 14% decrease in Pennington). The following table summarizes information from the 2010 baseline and the 2012 Results Report as submitted to the Annie E. Casey Foundation which contains 2011 data.

	JDAI 2012 Results Report	Average Daily Population		Annual Admissions		Average Length of Stay (In Days)		DOC Commits	
		Total	Youths of Color	Total	Youths of Color	Total	Youths of Color	Total	Youths of Color
Minnehaha County	Baseline (2010)	32	15	1108	521	16	17	83	40
	Recent (2011)	21	10	834	425	16	14	42	19
	Change in Number	-11	-5	-274	-96	0	-3	-41	-21
	% Change	-34.4%	-33.3%	-24.7%	-18.4%	0%	-17.60%	-49.4%	-52.5%
Pennington County	Baseline (2010)	35.5	23.6	740	468	17.5	18.4	56	43
	Recent (2011)	32.4	17.2	666	407	17.7	15.5	48	33
	Change in Number	-3.1	-6.4	-74	-61	0.2	-2.9	-8	-10
	% Change	-8.7%	-27.1%	-10%	-13%	1.1%	-15.8%	-14.3%	-23.3%