

Council of Juvenile Services
October 8, 2004, Cedar Shore - Oacoma, SD
Meeting Minutes

Friday, October 8, 2004

Council of Juvenile Services Members Present: Carol Twedt, Doug Herrmann, Susan Randall, Judge Janine Kern, Mike Leidholt, Dave Nelson, Grant Walker, Gib Sudbeck, Sharon Sonnenschein, JC Chambers, Joe Verhulst, Doug Thrash

Council of Juvenile Services Members Absent: Lindsay Ambur, Sean Gilmore, Mike Dacy

Others Present: Kevin McLain, Jodi Kirschenman, and Joy Erlenbusch from the Department of Corrections; Keith Bonenberger from UJS, Dick Kirkie, Dallas Johnson,

1. WELCOME & REVIEW OF AGENDA

Chairperson, Carol Twedt, welcomed those in attendance and reviewed agenda. No amendments to the agenda were made.

2. APPROVAL OF MINUTES FROM JUNE 2004

Janine Kern moved to approve the minutes, Mike Leidholt seconded, motion carried unanimously.

3. MEMBERSHIP UPDATE

Kevin McLain gave an update on the CJS membership. Six members' terms expired and two members have resigned. This information has been sent to the Governor's office along with recommendations for new members based on recommendations from the individuals resigning/expired terms. Grant Walker and JC Chambers' memberships expired, but both individuals have agreed to serve again. Laura Dillon also resigned and Keith Bonenberger was asked to fill Dallas Johnson's vacancy. CJS needs youth members. McLain is looking for eligible youth members (under the age of 24, and preferably with some contact with the juvenile justice system) and requested that CJS members let him know of anybody that they could recommend as a youth member. Kern asked if input could be made on the recommendations that were sent to the Governor's office. McLain indicated there is always opportunity for input.

4. COALITION FOR JUVENILE JUSTICE (CJJ)

Jodi Kirschenman provided information on CJJ in order for the CJS to determine if they want to become a national member of CJJ or not. A letter from CJJ was provided that gave membership information, history of CJJ, benefits of being a CJJ member, and work projects conducted by CJJ. The OJJDP continues to support CJJ financially, but at a reduced rate. Dues to CJJ have increased this year to \$5,000, which can be paid out of the SAG allocation under the Formula Grants Program. Even if CJS chooses not to become members, CJS will still receive the same information as if members. You would just pay a higher conference fee, and not have representation at the CJJ board of directors meeting. Mike Leidholt felt it is more important to be members if CJJ was an advisor to OJJDP. Kern said that she was urged at her last FAC meeting to pull South Dakota into this group. Susan Randall urged CJS members to consider joining this organization to support their advocacy.

Carol Twedt asked how our SAG funds look. McLain responded that \$128,000 is available with very few drawdowns made to this point, so there is not hardship now. CJS could decide if you want to pay future memberships if you want. Doug Hermann voiced his belief that CJJ is a strong national voice and a very strong advocate for kids. Dave Nelson asked if there were other services that we could provide with this \$5,000 since CJS was just scrambling for money to get funds to the tribes. Nelson agrees with Randall on participating in a national group as it can be very valuable, but the \$5,000 annual dues is a lot of money.

Susan Randall moved to table this to the next meeting to make a decision. Janine Kern seconded it and also moved to write CJJ and ask to decrease or waive these funds because we are a small state with limited funding. Kern is willing to write to CJJ. Seven members were in favor of the motion, and four members were opposed. Motion passed.

5. COMPLIANCE MONITORING COMMITTEE REPORT

Dallas Johnson provided an update/overview of the first Compliance Monitoring Committee meeting that was held June 24th. The meeting was spent getting the committee members up to speed on Compliance Monitoring and JJDP. The committee focused discussion on the compliance monitoring statistics (including violations and de minimus), developing a compliance monitoring manual, a compliance monitoring survey (to go to State's Attorneys and Sheriffs) vs. developing a select list of questions to be asked when site visits are being conducted. The committee felt the latter option would be best. The committee also discussed strategies in regards to violations, and decided to hold another meeting at the later part of this year.

At the May meeting, CJS members received 2002 CM data, which included first half of 2003 and second half of 2003 data. The second half data is after the compliance legislation took effect. There have been some minor adjustments in the numbers but they still fell under the de minimus exception so South Dakota's status has not changed. After July 1, 2003, some of our jail removal violations in that six months period occurred in Walworth County, but because they were not a collocated facility so the kids admitted there were considered jail violations. They are now a collocated facility. The biggest area of concern as it relates to status offenders is Minnehaha County in part due to data anomalies. McLain said another area of concern as it relates to status offenders is having the appropriate steps in place to take advantage of the valid court order exception. There is also the possibility of, on a case by case basis, a status offender being brought into secure detention and not getting out in the 48 hours excluding holidays and weekends. But facilities are contacting DOC now when they have questions about the appropriateness of the detention and McLain would like to have all facilities do this.

6. CENTRALIZED INTAKE UPDATE

Dallas Johnson provided an update on the Centralized Intake Project. The project charter (outline) is complete; they are now developing the project design so that they will then have prototypes. Once they have the prototypes, they can then have users test it.... UJS has hired someone for this. Johnson said all of this will be functional by late winter/early spring, but on-line and effective by the end of this fiscal year.

Late August/early September two financial issues related to the Centralized Intake came into DOC to the staff of CJS. One is from SDCC and one from UJS (\$56,039.50).

- UJS Proposal - Once this system is up and running, it's the position of the UJS that they will need a programmer to maintain the system and to work with facilities on problems, training, help line support, etc. UJS requested an FTE in their 2005 budget and federal expenditure authority in this amount. *Susan Randall moved that CJS put this in their funding for one year and that UJS seek general dollars to cover it after the first year. Gib Sudbeck seconded. Mike Leidholt said he did not feel we should recommend where UJS get their funding after the first year. Leidholt then revised the motion to say: **Motion is for UJS to continue this project after CJS funds it for the first year. Randall removed the 'general dollar' comment from the original motion and agreed to use Leidholt's verbiage. Motion carried unanimously.***
- SDCC Proposal – The SDCC has not expended the funds designated for the centralized intake/risk assessment/data system due to delays in initiation of the project. The NPS grant's ending date is December 31, 2004. Therefore, in order to utilize these funds prior to the grant ending date, the SDCC proposed to the CJS the following: The Coalition will pay up to \$74,240 from its Nonparticipating States Grant for Department of Corrections approved county reimbursements for detention, shelter, holdover, electronic monitoring (active or passive) and transport services so long as Nonparticipating State Grant funds are available in exchange for a commitment from the CJS to pay the costs of initial training, the one-time cost of a training video, and the ongoing costs of additional staffing at the two designated intake centers for the centralized intake project. Discussion ensued. *Mike Leidholt moved to approve this proposal, JC Chambers seconded, motion carried unanimously.*

7. AD HOC LEGISLATIVE COMMITTEE REPORT

Chairperson Carol Twedt drafted a letter to Governor Rounds outlining the two types of legislation that CJS is anticipating and asking what role the CJS should play. The letter requested guidance on what role - advisory or testifying - the Governor would like the CJS to take, if any, when either of the types of legislation are introduced. Leidholt asked if we could get clarification from OJJDP to prevent conflicts. McLain indicated that we would be in contact with OJJDP based on what role the Governor wants CJS to play. If it's an advisory role, then there is no need to contact OJJDP. *Susan Randall made a motion to recommend approval of this letter and send it to the Governor. Janine Kern seconded, motion carried unanimously.*

8. AD HOC DETENTION, SHELTER CARE, & HOLDOVER STANDARDS COMMITTEE REPORT

Doug Herrmann expressed his thanks to this committee and the work that they have done at their three meetings in June, August, and October. He then went on to explain the statewide certification process and how ACA has been more dominant for detention sites. ACA is a three year process and the cost is around \$9600 every three years. In SD, WSDJCS is the only ACA accredited detention facility. Performance Based Standards (PbS) is another national standards process, which the SD DOC participates in. Herrmann reviewed different sections of the Detention/Shelter Care, and Holdover Standards Summary Document that all members received in their meeting materials. Discussion ensued. Herrmann then went on to explain the standards committee made a motion for CJS to consider. This motion is as follows: *The Detention, Shelter Care, Holdover Standards Committee recommends that the Council of Juvenile Services establish a policy and subsequent legislation for the establishment and enforcement of detention, shelter care and holdover standards and that the Department of Corrections be designated with the responsibility for the administration of the standards program. Mike Leidholt seconded.* Discussion ensued. Randall moved to modify the motion since DSS already has standards in place. Instead of ‘adopt a policy’, she suggested it read “Recommend to the Governor” since it is anticipated that this would be a Governor’s bill or a DOC bill. The final motion now reads: ***The Council of Juvenile Services recommends to the Governor that legislation be developed for the establishment and enforcement of detention, shelter care and holdover standards and that the Department of Corrections be designated as the responsible agency for the administration of the standards program. Second from Leidholt still stands. Motion carried unanimously.***

Doug Herrmann will let Representative Casey Murschel know that CJS is moving forward with this.

9. TRIBAL ADVISORY COMMITTEE REPORT

Tribal Advisory Group (TAG) Representative, Dick Kirkie, provided an update on the accomplishments of the TAG meetings. Kirkie reported that during the TAG’s July 15, 2004 meeting, participants identified the most urgent needs of the Tribes and compiled the needs into ten top priority areas for the CJS to consider (see handout). The TAG also decided that they would like each of the nine tribes to get the Native American Pass Through money equally. Kirkie indicated that the TAG would be requesting approval and support from the Tribal Council.

◆ Recommendations on Native American Pass Through Strategy

Randall provided an overview of the recommendations of the TAG, as established at their September 2004 meeting. They developed five recommendations for the CJS to consider (see handout). One of the five recommendations is for the CJS to continue to provide funding support for the TAG’s quarterly meetings. *Gib Sudbeck moved to approve \$20,000 for one year of funding for TAG meetings. Kern seconded it.* Mike Leidholt asked if SDCC is negotiable on their price. Randall indicated that they could go down to \$2,000 per meeting. Randall left the room while discussion ensued. ***Kern moved to amend the motion to: Pay the South Dakota Coalition for Children \$2,000 per meeting for staff costs and cover the costs of the Juvenile Justice Tribal Advisory Group meeting not to exceed \$20,000 in 2005. Work products from the Tribal Advisory Group shall include a directory, arrest and detention data, and amounts and sources of funds (IHS, DOJ, BIA, MH, D&A, Courts) received by tribes for juvenile justice projects. Motion carried unanimously.***

Randall returned to the meeting room and the motions were read to Randall for her understanding.

◆ Collection of Tribal Jail/Detention Data

Randall indicated that the request for tribal arrest and jail/detention data has been made. A form has been developed and distributed. The payment of \$500 for covering the cost of the data collection was favorably received, however there is no guarantee that this data will be available from all Tribes.

◆ Tribal Participation in Reimbursement Program.

The TAG has requested that Tribes be allowed to participate in the reimbursement program for detention, shelter care, transportation, holdover, and electronic monitoring. A discussion was held about the BIA obligation to cover preadjudicatory costs and the impact on funds available for compliance. Because this has the potential for significant fiscal impact, *Mike Leidholt moved to defer this decision to the next meeting so that members can see more of a track history on what was spent on county reimbursements and have a chance to get data from tribes to know what kind of an impact it would be if this was approved. Doug Thrash seconded, motion carried unanimously.* McLain noted that if this would be approved at a future meeting, then money would have to be shifted within the different categories because money can’t come out of DSO, Jail Removal, or Separation because these are non-compliance issues. The money would have to come from either Native American programs or move money that was set aside from counties and move that over to the Native American Programs budget.

10. ICWA COMMISSION UPDATE

Janine Kern reported on the progress of the Indian Child Welfare Act. Topics that Kern addressed were the State ICWA bill, tasks of the ICWA commission that included the development of a 400 person stakeholder survey for those with direct involvement in ICWA, and the focus groups that were conducted with the tribes and the state's circuit court systems. Other topics covered were tasks of the ICWA Commission, a recap of the progress to date, the meetings with tribes in South Dakota, the Child Protection services provided by the tribes, and the relationship between DSS, UJS and DOC. Kern indicated that she is going to recommend to the Governor that he designate a team to work on improving the working relationships between these agencies.

11. DMC COMMITTEE REPORT

Randall gave an update on the DMC committee. This committee has met one time in which Dr. Gary Leonardson presented the committee with the first phase of Leonardson's report that included detention, jail and DOC data. The DMC committee will meet again in February so that Dr. Leonardson can provide more information. After reviewing additional data and once the analysis is in, the committee will focus on developing recommendations for interventions to impact DMC.

McLain briefly explained some of the issues with the data that DOC has received so far, including arrest data that is not individual specific. McLain said due to confidentiality issues, DOC is unable to track juveniles as closely as adults. Discussion ensued. McLain also discussed the Focus Groups that were conducted. JC Chambers expressed concern of racism being a factor in DMC. Further discussion ensued. McLain said he would talk to Dr. Leonardson and Dr. Roland Laudenberg to see if the focus groups, surveys, and data analysis will measure racial bias and discrimination on the part of decision-makers.

12. FEDERAL ADVISORY COMMITTEE REQUEST FOR INFORMATION

Kern provided a handout and gave an overview of what took place at the last meeting, beginning with the purpose of the meeting, which was to discuss, revise, amend, and approve the two draft annual reports. One report is for Congress and the other for the administrator of OJJDP- Robert Flores. The FAC discussed the juvenile justice funding cuts to the states and discussed the report to the President and Congress to determine the focus and recommendations of the report. Mr. Flores urged the advisory committee to make a compelling argument for more funding for prevention programs. At the meeting, the JJAC voted to revise the wording in recommendation 8 to read: "The JJAC recommends that the President and Congress modify the JJDP Act to mandate that federal government agencies in conjunction with the OJJDP Administrator develop and implement programs that comply with the four core protections of deinstitutionalization of status offenders, separation of adults and juveniles, jail removal, and disproportionate minority contact and do not impose financial penalties on the states". The JJAC also had a lengthy discussion on the juvenile death penalty and life without parole sentences as well as discussed in depth the various recommendations that were developed by the JJAC for the reports.

The next meeting is in Washington, DC on December 8th and 9th at which Kern is planning to attend. Randall said she feels we should take this opportunity to submit what we think our major issues are, in response to #5 on Tim White's email. She thinks we should call their attention to the lack of stable juvenile probation, rehabilitation, and treatment services for tribes.

13. SYSTEMS AND SERVICES COMMITTEE REPORT

The Systems and Services committee developed at past meetings, a number of findings and recommendations regarding what they feel CJS should fund. A document was handed out to provide these findings and recommendations. Kern provided an overview of the accomplishments of the Systems and Services committee and reviewed the executive summary contained in the Findings and Recommendations document. Topics of the Findings and Recommendations include: Children and Family Services – Child abuse and Neglect; Need for Community Based Prevention and Early Intervention Programs/Services for Young Offenders; Education; Services for Children in Need of Supervision; Mental Health and Developmental Disabilities Services; Prevalence of Substance Abuse among youth in the juvenile justice system; and Fetal Alcohol Spectrum Disorder.

14. SYSTEM IMPROVEMENT AND TITLE V FUNDING STRATEGIES

- ◆ McLain provided a handout and explanation of the proposed funding strategies as recommended by the Systems and Services committee. In all, there were four main recommendations for funding developed by the Systems and Services Committee. McLain recommended that CJS do a Request for Proposal (RFP) with reapplication after two years. FY03 money would be spent by September 2005, however OJJDP indicated it would be okay to request an extension and the \$2 million dollars be spent by September 2006. Discussion ensued to determine the best option to get this money out to local entities. Discussion ensued. CJS directed DOC staff to draft an RFP. The expectation is that there would be second year funding based on satisfactory performance.

Funding limits were set. The truancy project would not exceed \$50,000 and CHINS would not exceed \$150,000 on an annual basis. There is a requirement that the state must provide incentive grants, therefore the application could include a project regarding probation officers. The third project, Programs to reduce the caseloads of court services officers, would not exceed \$50,000. The RFP proposals will be due Dec. 8th so that a review committee can review them and compile recommendations for CJS prior to the next meeting. Chairperson Twedt recommended that those members who serve on both the Systems and Services Committee and CJS sit on an RFP review committee. Members present agreed with this.

- ◆ With Title V funding, McLain recommends the same process (RFP). The money has to go to a local unit of government and they must form a prevention board. McLain suggested letters be sent out explaining the Title V program and ask for a one page response identifying who would be on their prevention board, who would provide their staff support, and a little bit of information about their community. Then based on this information the council would identify those communities they wanted to work with on prevention. CJS could invite two or three to training on risk focus prevention planning and those communities would then receive TA in order to go back to develop their prevention/intervention plan. The money would be granted to implement their direct services for their prevention activities. There is \$100,000 annually for this and is to go to direct provision of services. This process would identify the communities that have the interest, the capacity and the ability to participate in this prevention planning. A couple things to keep in mind: Tribes must be invited to participate in the prevention planning as well, communities have to be certified as in compliance with the four core requirements, and there is a match requirement of 50% as hard or in-kind match. A committee would be appointed to review these RFP's as appointed by Chairperson Twedt. Those individuals would be: Janine Kern, JC Chambers, Lindsay Ambur, Sharon Sonnenschein, Doug Thrash, and Barry Pillen (for Gib Sudbeck).

15. JJDP ACT CHILD PROTECTION RECORDS REQUIREMENTS

Two requirements of the federal act include: sharing public child welfare records with courts and the juvenile justice system and incorporating child protection service records into juvenile justice records. The first requirement says that the state must implement a system to ensure that if a juvenile is before the court or juvenile justice system, public child welfare records including child protection records that are on file in the geographic area of the jurisdiction will be made known to such court. The second provision deals with making child protection records available for establishing and implementing treatment plans for juvenile offenders. McLain suggested another Ad Hoc committee be formed to sort through this and determine what we need to do in South Dakota to comply with this. Possible members identified for this include Sharon Sonnenschein and Dave Nelson. Chairperson Twedt will work with DOC staff on this membership.

16. FORMULA GRANT BUDGET AMENDMENTS

McLain reviewed the expenditures that are allocated for spending. Since these expenditures will not be made within the next three months, McLain recommended that no formal budget amendments be made so that we can have an expenditure history.

Kern suggested CJS approach the Governor and Deb Bowman about a Family Assessment Center before the December meeting. Discussion ensued. Members felt it would be best to wait because we don't have a 'product' and also because this could be determined by the Systems and Services recommendations.

17. MISCELLANEOUS

Next CJS meeting was set for Monday, December 13, 2004 in Ft. Pierre from 9am-4pm.

18. MEETING ADJOURNED at 2:04 PM.

Mike Leidholt made a motion to adjourn. Doug Herrmann seconded, motion carried unanimously.

Recorded by Jodi Kirschenman, JJ Specialist