

Council of Juvenile Services
Fiscal Year 2005 Annual Report



June 30, 2005

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Executive Summary

The Juvenile Justice and Delinquency Prevention (JJDP) Act, as amended, establishes four core protections with which participating States and territories must comply to receive formula grants funds 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.

When Governor M. Michael Rounds took office in 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 passage of Senate Bill 202 allowed the State to 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 the Council of Juvenile Services.

The Department of Corrections is the designated state agency to receive and expend formula grant funds. The Department provides staff support to the Council and its committees.

State Fiscal Year 2005 represents the second year of the State’s renewed participation in the formula grants program. Significant accomplishments in the State’s second year of participation in the formula grants program include the following:

Compliance with the Jail Removal, Sight and Sound Separation, and DSO Requirements

During Fiscal Year 2005, a reimbursement system was implemented that provides financial support to counties or arresting agencies that lack appropriate temporary custody options for youth. Services eligible for financial assistance include detention, shelter care, attendant care, transportation, and electronic monitoring.

South Dakota’s calendar year 2004 Compliance Monitoring Report, which was submitted to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in June 2005, shows a significant reduction in violations of the jail removal (JR), sight and sound separation (S&S) and deinstitutionalization of status offender (DSO) requirements. The following table shows the progress made in meeting the Act’s requirements over the past three reporting periods.

Summary of Violation History									
	2002			2003*			2004		
	DSO	JR	S&S	DSO	JR	S&S	DSO	JR	S&S
Violations	115	291	9	16	34	0	9	5	1
Violation Rate	56.75	143.60		8.18	17.38		4.60	2.56	
<i>* Data Projected from July through December 2003 admission.</i>									

Based on the small number of violations and the fact that the violations are isolated incidents that do not constitute an ongoing pattern, it is anticipated that the OJJDP will find the State of South Dakota in compliance with the Act requirements and eligible to receive continued funding.

Progress with the Disproportionate Minority Contact Initiative

In Fiscal Year 2005 the Council of Juvenile Services completed the identification phase of DMC. On a statewide basis DMC was found to exist at the phases of arrest, detention and commitment to DOC. The arrest stage was found to exhibit the most evidence of minority overrepresentation within the juvenile system.

Mountain Plains Research was contracted to conduct an assessment of DMC in order to assist the Council in identifying interventions that can reduce the occurrence of DMC. Mountain Plains Research conducted a quantitative analysis based on arrest, court, and corrections data sets. The quantitative analysis was supplemented with a qualitative assessment conducted through twelve focus groups in different locations across the state. The focus groups included youth, parents, juvenile justice practitioners, and service providers.

Based on the DMC assessment results, the Council of Juvenile Services selected three communities in which to fund DMC interventions – Sioux Falls, Rapid City, and Sisseton. First year funding of DMC intervention projects was set at \$80,000 for both Sioux Falls and Rapid City and \$40,000 for Sisseton. The Council asked that local DMC Workgroups be formed in each of the three communities to identify local factors associated with DMC and to develop community specific intervention plans. Each of the DMC Workgroups were asked to complete their initial local assessment and submit an intervention plan by October of 2005.

System Improvement Grants

The Systems and Services Committee of the Council was tasked with identifying needed changes to the juvenile justice system and to make recommendations on the utilization of formula grant funds. While numerous systems enhancements and changes were identified, the Committee identified two program areas for funding - community based services for Children in Need of Supervision and truancy prevention and intervention programs. The Council endorsed these program areas and a request for proposals was distributed. The following programs were successful applicants:

Lewis and Clark Mental Health Center – An intensive intervention program for children in need of supervision in Charles Mix County. **\$138,000**

Lifeways, Inc. - Implement an evidenced model for specific high-risk youth that attend the Rapid City Academies (alternative schools). **\$50,486.00**

Prairie View Prevention Services – Program includes providing school-based alcohol and drug services to youth in Minnehaha and Lincoln Counties. **\$43,527.00**

Capital Area Counseling Service, Inc. – Georgia Morse Middle School Truancy Prevention Project will address truancy prevention and intervention. **\$42,628.00**

Office of the Pennington Co. State’s Attorney - A truancy court to include truancy court proceedings, assessments with truancy court participants and their families, and assisting youth and families to access community resources. **40,000.00**

The Systems Improvement Committee also had recommendations involving the need for more services to keep youth in the community and out of the justice system; the link between the mental health system and the juvenile justice system; and the link between the child protection system and the juvenile justice system. By working with the Division of Mental Health, a family support program was developed which will assist families of severely emotionally disturbed youth to access needed services to prevent out of home placement. The Division of Mental Health’s proposal involved the development and implementation of a mental health family support program to help families obtain support services such as respite care, family support, case management, expenses, transportation to appointments, and other needed services and support. The Council funded the mental health family support program in the amount of \$128,000.

Tribal Advisory Group and Native American Pass-Through

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 Juvenile Justice Tribal Advisory Group convened by the South Dakota Voices for Children. The Tribal Advisory Group meets quarterly to plan juvenile justice related programs, share information, and develop recommendations for the Council on the Native American Pass-Through process. The Tribal Advisory Group is comprised of multiple members from each of the Indian Tribes in South Dakota.

The Native American Pass-Through grant process was implemented in Fiscal Year 2005. The total amount allocated to the Native American Pass-Through program far exceeds the minimum pass-through amount set by OJJDP. All nine Tribes in South Dakota are eligible to access up to \$30,000 over two years. The most common use of grant funds by the Tribes is for probation services.

Progress with Child Welfare Records Requirement

In the 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act, Congress amended the Act to require States to include activities in their Three-Year Plan and Application for Formula Grant funds to achieve the following:

- provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court; and
- establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders.

In the spring of 2005, the Council of Juvenile Services formed an ad hoc Child Welfare Records Committee comprised of individuals from States Attorney's Offices, the Unified Judicial System, the Department of Social Services, and the Department of Corrections. The Committee began the process of reviewing federal requirements and applicable state laws to develop recommendations for the Council on how to meet the new child welfare records requirements.

The Child Welfare Records Committee met on two occasions during Fiscal Year 2005 and have concluded the following:

- Child protection records should be made available during judicial proceedings involving alleged or adjudicated Children in Need of Supervision and delinquents.
- Legislation will be needed to comply with the child welfare records requirements.

The Child Welfare Records Committee will continue to meet in Fiscal Year 2006 to develop the needed legislation.

Section 1 – Juvenile Justice Formula Grants Program

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 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 section contains information on each of the core protections.

1.1 *Formula Grants Program Requirements*

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.”

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.”

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 and therefore 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 education 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).

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 any point of the juvenile justice system. 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.”

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.).

1.2 Formula Grant Funds

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 activities.
- 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 the 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 Formula Grants Three-Year 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 Sections 1.1 and 1.2: OJJDP Formula Grants Program Series: Fact Sheet Author: Heidi M. Hsia Published: Office of Juvenile Justice and Delinquency Prevention, November 1999]

1.3 South Dakota's History of Formula Grants Participation

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 (now the South Dakota Voices for Children) received an NPS grant and these funds were available through December 31, 2004. The Coalition has a State Advisory Group and made funds available to counties to support compliance related services. These services included 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 also awarded subgrants for local juvenile justice projects.

1.4 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 attention was State participation in the 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 2 – Council of Juvenile Services

2.1 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.

2.2 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 involving the use of 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.

2.3 Membership of the Council of Juvenile Services

The following individuals were members of the Council of Juvenile Services at the close of Fiscal Year 2005:

Lindsay Ambur, Youth Member, Fort Pierre
Keith Bonenberger, Unified Judicial System, Pierre
Richard Bird, Dacotah Pride, Agency Village
J.C. Chambers, Stronghold Counseling, Sioux Falls,
Dennis Daugaard, Children's Home Society, Garretson
Mike Victor Erlacher, Rushmore Academy, Rapid City/Lemmon
Sean Gilmore, Youth Member, Pierre
Doug Herrmann, Department of Corrections, Pierre
Judge Janine Kern, 7th Circuit Court, Rapid City
Jason Kittles, Youth Member, Rapid City
Sheriff Mike Leidholt, Hughes County Sheriff, Pierre
Dave Nelson, Minnehaha County 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

Section 3 – Fiscal Year 2005 Activities and Accomplishments

3.1 Compliance Related Activities and Accomplishments

County Reimbursement Program

Meeting the temporary custody needs of juveniles consistent with the Juvenile Justice and Delinquency Prevention Act can be a burden on county governments. The Council of Juvenile Services authorized the development of a reimbursement system to provide financial support to counties. During Fiscal Year 2005, a reimbursement system was implemented that provided financial support to counties or arresting entities that lack appropriate temporary custody options for youth. Services eligible for financial assistance include detention, shelter care, attendant care, transportation, and electronic monitoring.

During Fiscal Year 2005, a total of \$137,019.97 was reimbursed to 30 counties for services consistent with the reimbursement program.

Compliance Monitoring

A compliance monitoring system has been developed and implemented to monitor the state's compliance with the jail removal, sight and sound separation, and deinstitutionalization requirements of the formula grants program.

All facilities in the state have been classified as adult or juvenile and secure or non-secure. During Fiscal Year 2005, 16 site visits were conducted at juvenile and adult facilities to verify their respective classifications, to collect and verify data, to identify if violations of the formula grants program requirements are occurring, and to provide technical assistance and training on the Act's requirements.

Admission and release data was collected and analyzed from 36 jails, seven juvenile detention centers, one secure state correctional facility and one secure private facility. This data was utilized to complete the Calendar Year 2004 Compliance Report.

Calendar Year 2004 Compliance Reports

South Dakota's calendar year 2004 Compliance Monitoring Report, submitted to the Office of Juvenile Justice and Delinquency Prevention in June 2005, shows a significant reduction in violations of the jail removal (JR), sight and sound separation (S&S) and

deinstitutionalization of status offender (DSO) requirements. The following table shows the progress made in meeting the Act’s requirements over the past three reporting periods.

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	DSO	JR	S&S	DSO	JR	S&S	DSO	JR	S&S
Violations	115	291	9	16	34	0	9	5	1
Violation Rate	56.75	143.60		8.18	17.38		4.60	2.56	
<i>* Data Projected from June through December 2003 admission.</i>									

Based on the small number of violations and the fact that the violations are isolated incidents that do not constitute an ongoing pattern, it is anticipated that the OJJDP will find the State of South Dakota in compliance with the Act requirements and eligible to receive continued funding.

3.2 Disproportionate Minority Contact Activities and Accomplishments

The DMC requirement of the Act requires states to implement the following five steps to address DMC:

1. **Identify** existence/extent of disproportionality
 - Conduct “between race” comparisons within jurisdictions and at specific decision points in the system
2. **Assess** data about DMC to target detailed studies,
 - Assess factors impacting DMC, identify points of needed intervention, and allocate resources for system interventions
3. **Intervene** to reduce DMC
 - Identify and implement policy and/or system interventions to reduce DMC
4. **Evaluate** how DMC responds to policy initiatives and system interventions
5. **Monitor** trends in DMC within and across jurisdictions

In Fiscal Year 2005, the Council of Juvenile Services completed the identification phase of the DMC. Based on data collected from the Attorney General’s Division of Criminal Investigation, the Unified Judicial System, and the Department of Corrections, DMC was found to exist in South Dakota’s juvenile justice system. On a statewide basis DMC was found to exist

at the phases of arrest, detention and commitment to DOC. The arrest stage was found to exhibit the most evidence of minority overrepresentation within the juvenile system.

Mountain Plains Research was contracted to conduct an assessment of DMC in order to assist the Council in identifying interventions that can reduce the occurrence of DMC. Mountain Plains Research conducted a quantitative analysis based on arrest, court, and corrections data sets. The quantitative analysis was supplemented with a qualitative assessment conducted through twelve focus groups in different locations across the state. The focus groups included youth, parents, juvenile justice practitioners, and service providers.

Based on the DMC assessment results, the Council of Juvenile Services selected three communities in which to fund DMC interventions – Sioux Falls, Rapid City, and Sisseton. First year funding of DMC intervention projects was set at \$80,000 for both Sioux Falls and Rapid City and \$40,000 for Sisseton. Local DMC Workgroups were formed in each of the three communities to identify local factors associated with DMC and to develop community specific intervention plans. Each of the local DMC Workgroups will be completing their initial assessment and submitting an intervention plan by October of 2005.

3.3 System Improvement Activities and Accomplishments

The Systems and Services Committee of the Council was tasked with identifying needed changes to the juvenile justice system and to make recommendations on the utilization of formula grant funds. While numerous systems enhancements and changes were identified, the following two program areas were identified by the Committee and endorsed by the Council for funding: Community Based Services for Children in Need of Supervision and Truancy Prevention and Intervention Programs. The Council endorsed these program areas and a request for proposals was developed and distributed. The following programs were successful applicants for system improvement funds:

Lewis and Clark Mental Health Center – An intensive intervention program for at least 50 adjudicated children in need of supervision in Charles Mix County in the first year. Services include counseling/therapy, recreational opportunities, education/tutoring, life skills, assistance in obtaining jobs, crisis intervention and therapeutic foster care.
\$138,000

Lifeways, Inc. – Funds were awarded to implement an evidenced-based program for specific high-risk youth that attend the Rapid City Academies. This school based prevention program is specifically developed for youth in grades nine through twelve (14-18 yrs) who are at risk for school dropout, and who may also exhibit multiple behavior problems, such as truancy, alcohol use, substance abuse, aggression, depression, or suicide risk behaviors. 504 juveniles are expected to receive services. **\$50,486.00**

Prairie View Prevention Services – Program includes providing school-based alcohol and drug services to youth in Minnehaha and Lincoln Counties. Services provided include substance assessment or update and placement in one of two groups based on diagnosis, and the provision of guidance, therapy, and ongoing assessments for the juvenile and their family through the 12-week program. 160 juveniles and families would receive services during the project duration. **\$43,527.00**

Capital Area Counseling Service, Inc. – Georgia Morse Middle School Truancy Prevention Project will address the need in the community by serving approximately fifteen families and twenty-five students between grades 4-8. The coordinator will manage the project with the major activities focusing on four areas: family empowerment, family education, student truancy prevention, and student alternatives for academic proficiency. **\$42,628.00**

Office of the Pennington Co. State's Attorney - Implement a truancy court with the following services to be offered: truancy court proceedings, assessments with truancy court participants, which include truants and their families, and make community resource information available. Truancy court staff will collaborate with a variety of community agencies in order to get the needed care to truants and their families. The program will directly serve approximately 32-96 participants in truancy court in the first year. **\$40,000.00**

The Systems Improvement Committee also had recommendations involving the need for more services to keep kids in the community and out of the justice system; the link between the mental health system and the juvenile justice system; and the link between the child protection system and the juvenile justice system. By working with the Division of Mental Health, a family support program was developed which will assist families of severely emotionally disturbed youth to access needed services to prevent out of home placement. The Division of Mental

Health's proposal involved the development and implementation of a mental health family support program to help families obtain support services such as respite care, family support, case management, expenses, transportation to appointments, and other needed services and support. The Council funded the mental health family support program in the amount of \$128,000.

The Systems and Services Committee's recommendations regarding assessment of fetal alcohol spectrum disorder among youth in the juvenile justice system are being addressed through a multi-year project on FASD in the South Dakota Juvenile Justice System under the auspices of the USD Center for Disabilities. The project involved completion of a needs assessment in 2004-2005 and implementation of a pilot project in 2005-2006. The overall goal of this project is to develop a sustainable system for identifying individuals with FASD in the SD Juvenile Justice System and providing appropriate treatment services.

On the prevention side of this issue, the State of SD Consortium for FASD Prevention proposes to integrate a comprehensive statewide system of brief intervention and case management services for pregnant and non-pregnant women with dependent children in SD who may show alcohol/drug abuse and dependency risk factors. The services are provided in an effort to reduce the risk factors of alcohol use in order to prevent future alcohol exposure births. The SD Division of Alcohol and Drug Abuse, within the SD Department of Human Services, will work with the Center for Disabilities within the University of SD School of Medicine and Health Services. These two agencies along with the identified task force will work to mobilize and build the capacity of the state to provide a critical service to women in SD who are at risk of prenatal alcohol use.

3.4 Centralized Intake Support

A centralized statewide intake system is being developed by the Unified Judicial System to support consistent detention needs assessment and placement decisions when youth are taken into temporary custody by law enforcement. The centralized intake system will be a web-based system and available to law enforcement 24 hours a day, every day. The system will help identify whether the youth needs temporary custody, what type of facility can best meet the child's need consistent with the Act's requirements, and help identify available beds consistent with the needs of the youth.

Development costs for the centralized intake system are being covered by an earmarked grant from the Department of Justice. The Council agreed to support one programmer position in Fiscal Year 2006 to assist with help desk functions for the new system.

3.5 Progress with Child Welfare Records Requirement

In the 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act, Congress amended the Act by adding the following section:

In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, projects, and activities. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

Share Public Child welfare Records with the courts in the Juvenile Justice System

(26) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court;

Establish Policies and systems to incorporate relevant Child Protective Services Records into Juvenile Justice records

(27) establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; and

(28) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675).

In the spring of 2005, the Council of Juvenile Services formed an ad hoc Child Welfare Records Committee comprised of individuals from States Attorney's Offices, the Unified Judicial System, the Department of Social Services, and the Department of Corrections. The Committee is to review federal requirements and applicable state laws to develop recommendations for the Council on how to meet the new child welfare records requirements.

The Child Welfare Records Committee met on two occasions during Fiscal Year 2005 and has concluded the following:

- Child protection records should be made available during judicial proceedings involving alleged or adjudicated Children in Need of Supervision and delinquents.
- Legislation will be needed to comply with the child welfare records requirements.

The Child Welfare Records Committee will continue to meet in Fiscal Year 2006 to develop the needed legislation.

3.6 Tribal Advisory Group and Native American Pass-Through

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 Juvenile Justice Tribal Advisory Group convened by South Dakota Voices for Children. The Tribal Advisory Group meets quarterly to plan, share information, and develop recommendations for the Council on the Native American Pass-Through process. The Juvenile Justice Tribal Advisory Group is comprised of multiple members from each of the Indian Tribes in South Dakota.

Accomplishments of the Juvenile Justice Tribal Advisory Group include:

- Creation of the first South Dakota Tribal Juvenile Justice Directory providing contact information by tribe and by position for child protection services, law enforcement, judges, juvenile probation officers, court administrators, etc.
- Collaboration with South Dakota Kids Count and South Dakota Voices for Children to develop a prototype tribal data project with tribe-specific information on children and families and indicators of well-being.

The Native American Pass-Through grant process was implemented in Fiscal Year 2005. All nine Tribes in South Dakota are eligible to access up to \$30,000 over two years. The most common use of grant funds by the Tribes is for probation services.

3.7 Detention Standards Assessment and Recommendations

During Fiscal Year 2005, the Council of Juvenile Services finalized an assessment of the need for standards for juvenile detention centers, shelter care facilities, and attendant care sites. Based on this assessment, the Council took the following action:

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.

The above motion carried unanimously. The assessment report has been submitted to the Governor's Office for consideration as a potential 2006 legislative issue.

3.8 Title V Delinquency Prevention

Because South Dakota is in compliance with the formula grant requirements, the State is eligible to receive Title V Juvenile Delinquency Prevention funds. Federal Fiscal Year 2004 and 2005 applications were submitted and a first year grant of \$100,000 has been awarded to the State. Funds received will be subgranted out to local delinquency prevention projects.

The Council authorized the dissemination of a request for proposals for delinquency prevention funding. The community of Pierre and the Yankton Sioux Tribe were selected to participate in the Title V program. In order to receive funds each community will need to form a delinquency prevention board, conduct a risk and protective factors assessment of their community and develop a three-year delinquency prevention plan. The plan and application for funds will be submitted to the Council in the fall of 2005.

Section 4 – Key State Fiscal Year 2006 Activities

The following are key Fiscal Year 2006 Activities for the Council of Juvenile Services and the Department of Corrections

4.1 Compliance Related Activities

- Continue to operate a reimbursement system to support counties and arresting entities in complying with the requirements of the juvenile justice Act.
- Continue to operate the compliance monitoring process, which involves data collection and analysis of all admissions to secure facilities of juveniles.
- Conduct onsite inspections of jails and detention centers.
- Intervene when compliance violations are detected by providing training and technical assistance.
- File the 2005 compliance monitoring report with the OJJDP.

4.2 Disproportionate Minority Confinement

- Develop and implement statewide DMC interventions based on the identification data and DMC assessment.
- Convene local DMC workgroups in Sioux Falls, Rapid City and Sisseton to identify local factors associated with DMC and to identify interventions.
- Fund DMC interventions in Sioux Falls, Rapid City and Sisseton.
- Conduct grant monitoring site visits for DMC intervention subgrants.

4.3 Tribal Advisory Group and Native American Pass Through

- Continue to financially support the operation of the Juvenile Justice Tribal Advisory Group.
- Members of the Council of Juvenile Services and staff from the Department of Corrections will attend Tribal Advisory Group meetings to share and receive information on tribal and Native American juvenile justice issues.
- Second year Native American Pass Through grants will be made available to all nine Tribes.

- Conduct grant monitoring site visits for Native American Pass-Through grants.

4.4 System Improvement

- Membership in the Systems and Services Committee will be reconstituted with members appropriate to focus on Children in Need of Supervision and community-based interventions.
- Systems and Services Committee will also continue to support the development and implementation of community-based adolescent mental health interventions.
- Conduct grant monitoring site visits for existing system improvement subgrants.

4.5 Child Welfare Records

- The Child Welfare Records Committee will continue to work on the development of legislation to allow for child protection records to be made available for CHINS and delinquent court proceedings.
- The Committee will also ensure that policies and procedures are developed to support the provision and utilization of child welfare records consistent with federal and state confidentiality provisions.
- Technical assistance will be sought through OJJDP to assist with the development of legislation and the subsequent policies and procedures.

4.6 Title V Delinquency Prevention

- Arrange for and provide technical assistance and training for the communities selected to participate in the delinquency prevention initiative.
- Fund a \$5,000 planning grant for each community to support data collection, the development of a delinquency prevention plan, and the development of the Title V Delinquency Prevention grant application.
- Fund Title V Delinquency Prevention grants for the two communities that have completed the data collection and delinquency prevention plan process.
- Conduct grant monitoring site visits of delinquency prevention subgrants.

Section 5 – 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 2003-2005 Three-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.

5.1 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 Officer supervises 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.

5.2 FY2005 Activities

The six System Improvement grants implemented in Fiscal Year 2005 and discussed previously in this report all have the potential to improve community-based treatment services to Children in Need of Supervision. These grants include out of school time programs for adjudicated CHINS, school-based alcohol and drug programs, and truancy prevention and intervention programs.

The recommendation of moving out of home placement authority from the Department of Corrections to the Unified Judicial System was rejected by both the Executive and Judicial branches of State government.

5.3 Plan for FY2006

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:

- Systems and Services Committee will be reconstituted with members appropriate to focus on Children in Need of Supervision and community-based interventions.
- Research how other states administer 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 with a focus on effective community-based services.

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

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