

# Juvenile Justice Oversight Council

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October 28, 2015 • 10:00am CST  
Capitol Building • LCR1  
Pierre, SD

## Council Members

Kristi Bunkers, *Governor's Appointee*  
Sheila Weber, *Governor's Appointee*  
Jim Seward, *Governor's Appointee*  
Patrick Weber, *Governor's Appointee*  
Amy Iversen-Pollreis, *Governor's Appointee*  
Sarah Morrison, *Governor's Appointee*  
Matt Kinney, *Senate Majority Leader Appointee*  
Senator Billie Sutton, *Senate Majority Leader Appointee*  
Senator Alan Solano, *Senate Majority Leader Appointee*  
Kelly Marnette, *Attorney General Appointee*

Representative Brian Gosch, *House Majority Leader Appointee*  
Deb Hadcock, *House Majority Leader Appointee*  
Representative Julie Bartling, *House Majority Leader Appointee*  
Judge Scott Myren, *Chief Justice Appointee*  
Justice Janine Kern, *Chief Justice Appointee*  
Nancy Allard, *Chief Justice Appointee*  
Judge Steven Jensen, *Chief Justice Appointee*  
Greg Sattizahn, *Chief Justice Appointee*  
Thomas Sannes, *Chief Justice Appointee*

Representative Gosch and Mr. Kinney participated remotely. All other members were present.

## Also Present:

Tessa Upin, *Crime and Justice Institute*, Technical Assistance Provider  
Sadie Stevens, *Office of the Governor*, Council Staff

## Opening Remarks

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Jim Seward called the meeting to order at 10am and welcomed the members to the Council. He briefly discussed the history of SB 73, as well as the scope and duties of the statutorily required oversight council.

Following Mr. Seward's opening remarks, he asked each member of the council to give an introduction and briefly describe their involvement and interest in juvenile justice reforms.

Mr. Seward moved the discussion to the selection of a chairman and nominated Greg Sattizahn to fulfill that position, citing his expertise in this area as an important qualification. The motion was seconded by Senator Solano, and the council unanimously voted to make Mr. Sattizahn the chairman.

Chairman Sattizahn nominated Mr. Seward to be the vice chair, and Mr. Seward was unanimously voted to be vice chairman.

The discussion turned to the statutory enumerated responsibilities of the Oversight Council. Those duties include:

- (1) Review the recommendations of the juvenile justice reinvestment initiative work group in the final report dated November 2014, track implementation, and evaluate compliance;
- (2) Review performance measures and outcome measures proposed by the Department of Corrections, Unified Judicial System, and Department of Social Services;
- (3) Review performance measures and outcome measures submitted semiannually by the Department of Corrections, Unified Judicial System, and Department of Social Services;
- (4) Review efforts by the Department of Social Services to ensure delivery of treatment in rural areas and related performance measures;
- (5) Track progress and make recommendations to improve outcomes for Native American children in the juvenile justice system;
- (6) Review the payments of the diversion incentive program to counties, payments from the juvenile justice detention cost-sharing fund and performance-based reimbursement payments to group care and residential treatment centers; and
- (7) Prepare and submit an annual summary report of the performance and outcome measures to the Legislature, Governor, and Chief Justice. The report shall include any recommendations for improvement.

## Juvenile Justice Reinvestment Initiative Overview

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The South Dakota Juvenile Justice Reinvestment Initiative (JJRI) Work Group convened over the summer and fall of 2014. Mr. Seward served as the chairman of the JJRI work group and provided an overview of the process and the resulting reform legislation known as the Juvenile Justice Public Safety Improvement Act (JJPSIA), or Senate Bill 73.

Mr. Seward spoke about the work group process that occurred during the summer and fall of 2014. The process involved in-depth analysis of the South Dakota juvenile justice system in order to understand the system fully and identify areas in need of improvement. The process also included numerous stakeholder meetings which served to provide additional input to the work group.

Governor Daaguard, Chief Justice Gilbertson and Legislative leadership charged the work group with three goals:

1. Reduce juvenile justice costs by investing in proven community based practices, preserving our residential facilities for serious offenders.
2. Increase public safety by improving outcomes of youth and families and reducing juvenile recidivism.
3. Effectively hold juvenile offenders more accountable.

Mr. Seward described the South Dakota juvenile justice system prior to the passage of JJPSIA. The presentation also highlighted the areas in which data and research revealed areas in the system in need of improvement in order to produce better outcomes for youth and the community. Specifically, South Dakota's own data was analyzed and the following findings from the JJRI work group were shared with the council:

- 7 of 10 commitments to the Department of Corrections (DOC) were for misdemeanor offenses, children in need of supervision (CHINS) violations and probation violations.
- A quarter of the commitments to DOC are probation violators.
- The number of youth placed into the custody of DOC declined 20% from 2004 to 2013.
- The average length of stay in a residential placement was 15.3 months, up 27% since 2007.
- New admissions to probation have decreased 24% in the last 10 years.
- Despite fewer probationers being placed on higher supervision levels, the length of time spent on probation increased from 6.3 months to 8.4 month since 2005.
- Probation lengths varied greatly across circuits, ranging from around 5 months in the Third and Seventh Circuits to close to 11 months in the Fourth Circuit.

These findings as well as national research on effective practices in juvenile justice is what informed the JJRI work group when putting forth their recommendations and ultimately what was included in JJPSIA. The policies in JJPSIA align with the JJRI work group goals and have three main focus areas:

1. Prevent deeper involvement in the juvenile justice system
2. Improve outcomes by expanding access to evidence-based interventions in the community
3. Focus residential placements on youth who are a public safety risk<sup>1</sup>

The expected impact of JJPSIA includes the following:

1. More children diverted from the system without a criminal record.
2. Incentive funds to counties to increase use of diversion.
3. Projected 29 percent fewer juveniles on probation in the next 5 years.
4. More than 50 percent fewer youth placed out-of-home projected by 2020.
5. Expanded access to proven community based interventions, especially in rural areas.

Judge Myren clarified that JJRI is not the same effort as the Juvenile Detention Alternatives Initiative (JDAI). While both initiatives center on improving the juvenile justice system, JDAI focuses on pre-adjudication and pre-disposition, while JJRI and JJPSIA specifically, focuses on how to make the system work more effectively once youth are adjudicated and a disposition entered.

## Agency Implementation Update

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### Department of Corrections

Kristi Bunkers, Director of Juvenile Community Services at the Department of Corrections (DOC), updated the group on DOC's implementation progress. Ms. Bunkers updated the Council on DOC's role in treatment team meetings, specifically, that DOC had implemented a monthly reauthorization request form with private providers and STAR Academy. She also discussed amending DOC's violator policy because SB 73 limited the type of offenses that are eligible for revocation. She advised that DOC established a workgroup that addressed these policy changes, revised its aftercare contract, addressed the data system changes as well as prepared staff training on the new policies.

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<sup>1</sup> See "Juvenile Justice Public Safety Improvement Act (SB73) Executive Summary"

Ms. Bunkers also discussed how Medicaid impacted group and residential placements, and how that in turn impacted lengths-of-stay. Ms. Bunkers highlighted the collaboration between the various agencies and how they are streamlining the process to more effectively deliver services and implement programs to reduce recidivism for juvenile offenders.

There was discussion about how implementation of JJPSIA policies would impact situations where previously there was more flexibility for judges and prosecutors when it came to making disposition decisions for juveniles in the system. Mr. Seward explained that the JJRI work group had similar conversations. Ultimately, the work group decided based on the data and research that investing in evidence-based programs to operate in the community was the best way to provide judges with additional options that have been proven to be more effective than incarceration. Judge Myren also spoke about the necessity for “truth in sentencing.” He indicated that often times a child, as part of a plea bargain agreement, will be adjudicated for a less serious crime and remanded to DOC custody for out-of-home placement. He said it is important for a child to be committed for the real reason. Judge Myren also discussed the other mechanisms that were written into the legislation, such as the creation of the Oversight Council, to address possible changes in the future if something is not working as intended.

Ms. Bunkers also spoke about the performance measures that DOC established to gauge their progress.

### Unified Judicial System

Chairman Sattizahn spoke about the Unified Judicial System’s (UJS) implementation progress. He discussed the UJS diversion programs, and noted that there has been a 20% increase in the use of these programs compared to last year. He indicated that, due to the nature of the program, tracking diversion will be a challenge because the programs reside in various offices, such as the State’s Attorney’s office. UJS has been working with the SA offices to find a way to gather this diversion information.

The importance of treatment in the community was also discussed. In anticipation of the January 1 implementation date, a substance abuse and mental health screening tool called the GAINS-SS is being used to assess children on probation and in DOC custody in order to identify need areas and ensure appropriate services can be developed that match the demonstrated needs.

Chairman Sattizahn updated the group about the Community Response Teams and how the groups will be convened and how they will function. The group membership will be fluid, and will have 7 days to submit a recommendation to the judge, but the judge will still have discretion as to what to do with that recommendation. Judge Jensen has been very active in building a pilot program in his circuit.

Finally, Chairman Sattizahn spoke about the response grid for Court Services Officers (CSOs) to use when responding to behaviors, good and bad, of youth on probation. UJS has developed a draft grid that includes a continuum of responses to match with the behavior of the juvenile probationer. Chairman Sattizahn shared that the grid will be sent to the Supreme Court and then will be considered at its rules hearing in January.

Chairman Sattizahn also explained the processes being put in place that limits the term of probation to four months and allows for up to two extensions based on a youth needing more time to complete evidence-based treatment.

## Department of Social Services

Amy Iversen-Pollreisz, Deputy Secretary at the Department of Social Services (DSS), discussed the development of additional community based services for justice-system involved youth and their families. She shared information about a stakeholder workgroup that convened during the summer to discuss different community based treatment options. Both the stakeholder workgroup and the JJRI work group felt that Functional Family Therapy (FFT) would be an important program to implement because it addresses needs of the whole family. FFT is an evidence-based program that is effective in reducing recidivism for youth involved in the system as well as assisting siblings of the youth to prevent entry into the juvenile justice system while working to strengthen the family unit. There is currently an FFT pilot in Yankton and it has been effective with a variety of families.

DSS released an RFP for FFT in mid-August to expand the availability of FFT across the state. Interested providers will submit their proposals by November 5, 2015, and DSS will make the decisions in November and award contracts in December. There have been 16 letters of interest so far. Once FFT providers have been identified, training will begin in January and services will begin following completion of training, expected in early 2016. The FFT model requires extensive training to ensure fidelity and selected providers will be trained by FFT experts who will also be available for ongoing consultation. Depending on the size of the circuit, there could be multiple providers that offer FFT in an area.

Ms. Iversen-Pollreisz discussed the collaboration with the other agencies for the referral process to ensure youth are referred to the appropriate level of treatment. DSS will also work closely with the selected providers to monitor fidelity to the FFT model as well as track outcomes.

## Juvenile Citations

Kelly Marnette, Assistant Attorney General, spoke about the new juvenile citations process which allows law enforcement to issue tickets for certain low level offenses. The ticket and training materials for law enforcement and State's Attorneys has been developed and the citations will go into effect January 1, 2016.

## Provider Association

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Sheila Weber, Vice-President of Children and Youth Services for Lutheran Social Services, gave an update about provider services. She spoke about the various programs that are available from LSS, and the way that LSS is integrating their services to help with treatment in the community.

Ms. Weber also spoke about how shorter lengths of stay will impact the programs they currently have in place. They are monitoring their staff turnover rates and how to keep their new staff trained up to the necessary level.

LSS is doing an FFT pilot and received a grant to study disproportionate minority impact. The pilot program is located in Sioux Falls.

## Native American Focus Group Update

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JJPSIA requires that a group be created to study ways to improve outcomes for Native American youth in the South Dakota juvenile justice. The group must then provide recommendations to the Oversight Council on how to achieve these improvements. Tessa Upin, from the Crime and Justice Institute, updated the council of the progress of this focus group.

The South Dakota Juvenile Justice Reinvestment Initiative Native American Focus Group met for the first time in September. The group is chaired by Secretary Emery from the Department of Tribal Relations, and follows a similar model to the JJRI work group by establishing goals, analyzing the data and research, and looking at what is currently available and working well in South Dakota that could be expanded upon. The first progress report from the Focus Group is due to the Oversight Council in December 2016.

Justice Kern raised the question about Native American representation on the Oversight Council. Oversight Council members discussed and agreed upon inviting the Secretary of Tribal Relations to serve as a member of the Oversight Council.

## Performance and Outcome Measures

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JJPSIA requires that certain performance and outcomes measures be tracked and that the Oversight Council provide an annual report on these measures to the Governor, Chief Justice and Legislature. Ms. Upin gave an overview about performance and outcome measures and how this data would benefit the Council and help guide successful implementation of the reforms in SB 73.

Performance measures demonstrate whether an agency is achieving its objectives, such as reducing length of stay, and if progress is being made toward agency goals. Outcome measures demonstrate whether the intervention, such as commitment to DOC, had the intended effect of reducing recidivism and improving public safety.

Ms. Upin explained for example, one policy change in SB 73 limits the amount of time a youth can be on probation to four months. The performance goal would be the average length of time for youth on probation, while the outcome measure would be if there was reduced recidivism amongst probationers. Justice Kern raised a concern that as set forth in SB 73 the UJS and DOC were not using the same criteria for measuring recidivism. The Oversight Council agreed and indicated that Ms. Upin would assist in drafting a performance measure to insure that recidivism statistics are uniformly assessed.

This data will be used to inform the Oversight Council as well as to inform future policy and educate policymakers and agency leaderships. It will identify trends demonstrating areas in need of revision or clarification. Chairman Sattizahn noted that, since the policies were created using data, any changes the Council proposed should also be informed by data.

## Oversight Council Bill

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Patrick Weber discussed a cleanup bill for SB 73 that would clarify some of the language regarding restitution and forfeiture. The bill would also include an emergency clause so the revisions would take place immediately. The bill would be introduced by the Senate Judiciary Committee as an Oversight Council bill. At the conclusion of Mr. Weber's explanation, Vice Chairman Seward suggested adding another section in the bill to include the Secretary of Tribal Relations as a member of the council.

The bill was emailed to the members for approval. The bill received approval by the Council and will be introduced during the 2016 Legislative Session.

## Conclusion

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Chairman Sattizahn thanked the members of the Council for their participation and asked for a motion to adjourn. Vice Chairman Seward seconded that motion. The motion was unanimously approved.