



# 2020 Annual Report

*South Carolina Governor's Juvenile Justice Advisory Council (GJJAC)*

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[www.scdps.sc.gov/ohsjp/ijgp/gjjacs](http://www.scdps.sc.gov/ohsjp/ijgp/gjjacs)

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# INTRODUCTION

This report is a summary of the activities of the South Carolina Governor's Juvenile Justice Advisory Council in support of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. § 11101 *et seq.*, as amended), last reauthorized by Congress as the Juvenile Justice Reform Act of 2018. Our report responds to the Act's requirement that the Council submit recommendations to the Governor and the General Assembly regarding the state's progress towards the goals of the Act and compliance with its core requirements. The information on programs funded represent the FY 2019 (October 1, 2019 - September 30, 2020) and the FY 2020 (October 1, 2020 - September 30, 2021) grant cycles. Data related to compliance with the core requirements of the Act reflect the 2019 reporting cycle from October 1, 2018 - September 30, 2019.

Special thanks to Council members, staff, and all others involved with juvenile justice who made this year successful.



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Hon. Henry D. McMaster  
Governor of South Carolina  
State House  
1100 Gervais Street  
Columbia, South Carolina 29201

Dear Governor McMaster:

As the current chair of your Juvenile Justice Advisory Council, I am pleased to present to you our annual report.

Over the past several years, our state has made great strides in creating a juvenile justice system worthy of the name. Reforms began taking place well before the passage of Act 268 in 2016 raising the age of juvenile court jurisdiction to the age of 18, as leaders throughout the state began to insist that youth be recognized as a distinction driving a justice system different from adults.

Challenges remain, however. Particularly acute are the needs of the South Carolina Department of Juvenile Justice. The Department has struggled mightily to maintain a safe, healthy environment in its institutions for the youth confined there and the staff charged with their care. Director Freddie Pough has called on leaders in law enforcement and the judicial system to assist with keeping the numbers of youth confined to that minimum which serves the public safety and principles of accountability, avoiding needless commitment of low risk children. Those entreaties have had mixed results.

The challenge of COVID 19 was compounded by the announcement of the U.S. Department of Justice on February 5<sup>th</sup>, 2020, that it intended to sue the Department over practices in DJJ's long-term institutions which it considered to be violations of civil rights of youth confined there. The Department was apparently granted a reprieve given the tumultuous pandemic which followed shortly after, and the Department's assurances that it would remedy the unconstitutional conditions alleged.

That reprieve can only be provisional, however. The institutions at the Department of Juvenile Justice are not to be considered juvenile prisons. The South Carolina Supreme Court has

declared that the purpose of the state's juvenile courts is rehabilitative in nature and intended to protect the welfare of children. *See, In re Stephen W.*, 409 S.C. 73, 761 S.E.2d 231 (2014).

The Department is sorely in need of a salary structure to attract and retain dedicated and qualified staff for its secure institutions. Understanding that the pandemic has roiled state budget needs, the General Assembly should nonetheless give the Department top priority in improving salaries and other tangible benefits for staff at its secure facilities. This is in addition to supporting the Department's agenda outlined in Director Pough's report to the Governor which is summarized in his letter as part of this report.

There is also a pressing need to finally address the seemingly intractable problem of mentally ill and emotionally disturbed youngsters winding up at the Department of Juvenile Justice. Long ago the General Assembly attempted to prohibit the placement of these children at its institutions, by enacting what is now codified at S.C. Code Ann. Section 63-19-1450 (Supp. 2008) in the wake of the scandalous treatment of children in the state's reform schools in the late 1960's. The problem persists to this day.

Both the State Child Advocate and the director of the South Carolina Department of Mental Health have recognized the need for better treatment for these children, and have proposed solutions to provide it. We commend these recommendations to you, and ask the support of the General Assembly to carry them out.

Couple their recommendations with those of the South Carolina Department of Social Services, and the state must acknowledge that services to children and their families have been underfunded long before the onset of COVID 19. While this coming budget year may not be the time to address more comprehensive funding for systemic reform, the pandemic by now has exposed how fragile our child caring infrastructure is. Ultimately the state must undertake the arduous but necessary task of cementing core funding for services to children and youth as a permanent reform.

Finally, racial bias and disparate treatment of youth of color are endemic in our child caring institutions, some of it owing to the state's history, but hardly all of it. Nowhere is this more evident than in the institutions, which the Council monitors. As Michael Leach, the director of the Department of Social Services observes, we must confront these biases, however implicit,

with systematic interventions to root it out. Indeed, under the charge given us by the Juvenile Justice Reform Act, this is a core priority for the Council. We will focus on it routinely and forthrightly in the coming years.

It has been a pleasure to preside as chair of a group of smart, highly motivated people on this Council, clearly devoted to carrying out its mission. The unprecedented challenges of this past year have made that experience all the more rewarding, and you can be proud of their work.

Sincerely,

*Jay Elliott*

John D. 'Jay' Elliott, Acting Chair

JDE:

# JUVENILE JUSTICE AND DELINQUENCY PREVENTION (JJDP) ACT

The United States Congress passed the Juvenile Justice and Delinquency Prevention Act in 1974. Since its inception, the Act has been the subject of several amendments and reauthorizations over the years. The most recent reauthorization occurred after bipartisan legislation in 2018, which created the Juvenile Justice Reform Act of 2018, 34 U.S.C. § 11101 *et seq.*, as amended. The Act serves as a major juvenile justice reform measure in the United States and directs resources toward innovative approaches emphasizing prevention and early intervention rather than detention of juvenile delinquents. The four core requirements of the Act are the deinstitutionalization of status offenders (known by its acronym DSO), removal of youth from adult jails and lock-ups (Jail Removal), separation of youth in detention from adults by sight and sound (Separation), and reduction of racial and ethnic disparities in the juvenile justice system (R/ED).

The Juvenile Justice and Delinquency Prevention Act provides for:

- A nationwide juvenile justice planning and advisory system spanning all states, territories, and the District of Columbia;
- Federal funding for delinquency prevention and improvements in state and local juvenile justice programs and practices; and
- The operation of a federal agency, the Office of Juvenile Justice and Delinquency Prevention, or OJJDP, which is dedicated to training, technical assistance, model programs, and research and evaluation, to support state and local efforts.

The core requirements of the Act seek to:

- (1) Avoid the secure detention or incarceration of status offenders (youth who commit or are alleged to have committed offenses which are not adult crimes, such as running away from home, truancy, incorrigible behavior, or violations of curfew)
- (2) Separate juveniles from adult offenders in all placements, whether being treated as juveniles or as adults if transferred to the criminal courts
- (3) Remove all juveniles from adult detention facilities
- (4) Reduce or eliminate disparities in the juvenile justice system for racial and ethnic minorities.

To be eligible for grant funding under the Juvenile Justice Reform Act, South Carolina must maintain compliance with each of the four core requirements of the Act. The Formula Grant Program under the Act is authorized pursuant to Title II, Part B, Section 222 of the JJDP Act (34 U.S.C. §§ 11131-11133), amended by the Juvenile Justice Reform Act (JJRA), *Public Law No. 115-385*, signed into law on December 21, 2018.

The new Act maintains the requirement that each participating state assemble a state advisory group to establish priorities for funding under the Act, and for other juvenile justice purposes. The Governor's Juvenile Justice Advisory Council serves as the state advisory group for South Carolina. The Coalition for Juvenile Justice assembles the State Advisory Groups in a national cooperative effort to exchange knowledge, innovations, and data; develop consensus for national juvenile justice policy; and promote advocacy for youth in the juvenile justice system. Members of South Carolina's Council have been active and engaged with the Coalition of Juvenile Justice for many years.



# THE GOVERNOR'S JUVENILE JUSTICE ADVISORY COUNCIL

Created by the South Carolina General Assembly in 1975, the South Carolina Governor's Juvenile Justice Advisory Council (the Council) is responsible for advising policy makers on the state level about the needs of children and the juvenile justice system. The Council consists of volunteer private citizens with an abiding interest and training in children's issues, and representatives from state and local governmental agencies involved in juvenile justice and delinquency prevention, as well as system-involved youth and young adults. The Juvenile Justice Reform Act defines *System-Involved Youth* as members under the age of twenty-eight, who have been or are currently under the jurisdiction of the juvenile justice system, encouraging their participation in Council activities. In the past, the Council has had difficulty complying with this membership requirement. With the assistance of the Governor's Office, however, the Council has now fulfilled this requirement and is confident that compliance will not become problematic in the future.

The Juvenile Justice Reform Act (JJRA) of 2018 now requires state advisory groups to include at least one member with expertise in Native American tribal government, and at least one member with expertise in trauma informed care for juveniles. State advisory groups found noncompliant with the membership requirements are ineligible to receive federal funding from the Office of Juvenile Justice and Delinquency Prevention. The Council has recommended appointments to the Governor's Office to fulfill these criteria, and remain hopeful that their appointments are forthcoming.

The Council promotes the welfare of all youth by supporting efforts to build safe communities, recommending improvements in juvenile justice services, and offering technical assistance to state and local agencies for planning and implementing programs to improve the juvenile justice system. The Council believes that keeping children out of the juvenile justice system through delinquency prevention and early intervention programs is critical to improving both the juvenile justice system and the quality of life for all of South Carolina's citizens.

The Council continues to support programs that educate all stakeholders involved in key juvenile justice decision points, while eliminating racial inequities within the juvenile justice system. The Council specifically supports direct service programs, which require youth to

recognize and accept the consequences of their actions, including any sanctions imposed upon them, and obey the law. The Council sustains collaboration with all statewide partners and attempts to marshal all available resources to ensure that the youth in South Carolina maintain a high level of accountability, while equipping them to live crime-free, productive lives.

The updated requirements of the federal juvenile justice act, coupled with our state's systemic inability to comply with its previous version, pose pressing challenges for South Carolina's juvenile justice system. Members of the Council strive to address these challenges by promoting evidence-based programs, policies for reform, and national best practices, in addition to information for state and local policy makers. By increasing public awareness of prominent issues in juvenile justice through its communications and publications, the Council seeks to develop and implement innovative strategies to prevent and reduce delinquency.

In 1996, the state enacted legislation that allows secure confinement of status offenders, status contemnors and status probation violators and for them to be committed to the custody of the South Carolina Department of Juvenile Justice (SCDJJ) or to a secure evaluation center operated by the SCDJJ for a determinate period not to exceed ninety days. Efforts to deinstitutionalize status offenders have been and continue to be made by the SCDJJ and include implementing non-secure alternative programs throughout the state and providing a risk and needs assessment instrument to judges, solicitors, public defenders, and SCDJJ staff for use at the pre-adjudicatory detention, intake disposition, and commitment stages of the juvenile justice system. The pre-trial detention of status offenders is one of several practices permitted by state statutes, which conflict with the JJDP Act reauthorization of 2018.

The JJRA imposed additional requirements for the use of the valid court order (VCO) exception to the DSO requirement. Specifically, within 48 hours of the juvenile being taken into custody for violation of the VCO exception, if the court determines that placement in a secure detention or secure correctional facility is warranted, the court must issue a written order setting out the specific factual circumstances surrounding the violation of the VCO exception. The written order also must include findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile.

Placement may not exceed seven days and the court's order may not be renewed or extended.

A second or subsequent order is not permitted with respect to violation of a particular VCO. The JJRA also added a requirement that there must be procedures in place to ensure that a status offender is not detained longer than seven days or the length of time directed by the court (whichever is shorter). (Section 223(a)(23))

Additionally, the JJRA includes an amendment that enhances protections for youth awaiting trial as adults. This protection previously applied only to youth being held on juvenile court charges. An exception continues to exist for cases where a court finds, after a hearing and in writing, that it is in the interest of justice. The JJRA mandates that by December 31, 2021, unless found by a court to be in the interest of justice, juveniles who are being charged and tried as adults (1) may not have sight or sound contact with adults and (2) may not be detained in a jail or lockup for adults (except as provided under the jail removal requirement). The determination of whether such detention would be in the interest of justice must (1) be after a hearing, (2) be in writing, and (3) take into consideration several criteria (e.g., the juvenile's age, physical and mental maturity, present mental state, history of delinquency). When the court finds such detention to be in the interest of justice, additional requirements must be met. This requirement was added to Section 223(a)(11), which is one of the core requirements with which failure to comply will result in a reduction in funding. (Section 223(a)(11)(B))

Unless covered under the exception, the JJRA calls for the removal of all juveniles from adult facilities by December 31, 2021. Compliance with the JJRA's separation and removal core requirements would alleviate overcrowding in detention facilities across South Carolina, protect juveniles from the dangers of interacting with adult inmates, and allow adequate space for essential detentions. The Council's recommendations (starting on page 29) align with the JJRA's mandate to seek additional community-based alternative options in lieu of pre-trial detention for juveniles. Failure to comply with the JJDPA Act core requirements will result in a reduction or a determination of ineligibility for Title II Formula Grant funding.

# GJJAC MEMBERSHIP ROSTER

Jerry Allred

LaLita Ashley

Lisa Bernardin, *Immediate-Past Chair*

Harry W. Davis, Jr., Esq.

Wendell Davis

Ouida S. Dest, Esq.

Hon. John Dewese

John D. (Jay) Elliott, Esq., Vice Chair and currently *Acting Chair*

\*Fred Ettline

Sara Goldsby, Director (DAODAS)

\*Virginia S. Alford

Hon. David Guyton

Beatrice King

Freddie Pough, Director (SCDJJ)

Rev. Robert Reid

Lt. Chris Ross

Katherine Speed

Blake E. Taylor, Jr.

Christine Wallace

Hunter (Youth)

Kerry (Youth)

Rachel (Youth)

Vincent (Youth)

Samantha (Youth)

Gordan (Youth)

Isaiah (Youth)

Zaria (Youth)

Jehovah (Youth)

Daniel (Youth)

\*Denotes an inactive member

<https://search.scsos.com/boardsandcommissions>

# COMMITTEES

## **Executive Committee**

The Executive Committee functions as the planning committee for the Governor's Juvenile Justice Advisory Council (the Council). The committee oversees and monitors the Council's activities and budget, acts on behalf of the Council in a management capacity, and performs other duties and responsibilities, as the Council deems proper.

## **Subcommittees**

### **Emerging Leaders Subcommittee**

The Emerging Leaders Subcommittee allows youth members and other system-involved youth the opportunity to advise the Council on juvenile justice from their various personal experiences. These members offer invaluable perspectives on juvenile justice to the Council on the state level and partner with their counterpart committee of youth leaders empaneled by Coalition of Juvenile Justice on the national level. The Council's youth members shape the overall program and policy agenda for juvenile justice through the viewpoint of youth affected by the juvenile justice system. Our young members collaborate to articulate ideas, issues and initiatives influencing juvenile justice reforms and system enhancement for all youth locally and nationally.

### **Grants Review Subcommittee**

The Grants Review Subcommittee is responsible for reviewing, commenting, and scoring federal juvenile justice formula grant applications annually. Upon receipt of those applications, staff from the South Carolina Department of Public Safety's Office of Highway Safety and Justice Programs collate and forward the grant applications to the members of the committee. The committee employs an objective and transparent scoring process, which takes into account among other factors, the priorities established by Council and the quality of the applications. Together with the program staff, the grants review subcommittee provides recommendations to the Council for those grants, which best serve the Council's priorities for consideration and approval by the entire Council. The GJJAC approved grant recommendations are then forwarded by program to the SC Public Safety Coordinating Council for final approval.

### **System Improvement Subcommittee**

The System Improvement Subcommittee convenes discussions among representatives of state and local organizations and agencies serving youth, which support systematic juvenile justice and child welfare changes and advancements in South Carolina. The priority of each meeting is to collaborate, plan, and implement system improvement initiatives to transform South Carolina's juvenile justice system into one, which more efficiently and effectively serves the needs of youth. The subcommittee plays a key role in creating all state agency plans to serve the needs of youth in the juvenile justice system and helping to ensure the Governor's Juvenile Justice Advisory Council achieves its mission through strategic planning.

# COMPLIANCE WITH THE JUVENILE JUSTICE REFORM ACT

Each year the U.S. Office of Juvenile Justice and Delinquency Prevention sets quantitative standards to determine compliance with the four core requirements of the Act. These standards were applied to compliance monitoring reports submitted by each participating state for the FY 2019 reporting period and used to calculate determinations of state compliance with Section 223(a)(11), (12), and (13) of the JJDP Act, as amended, to provide the following:

## JJDP Act Core Requirements

**Deinstitutionalization of Status Offenders:** Status offenses are offenses that only apply to minors whose actions would not be considered offenses if they were adults. The most common status offenses are skipping school/truancy, running away, breaking curfew, and possession or use of alcohol. Under the JJDP Act, status offenders may not be held in secure detention or confinement.

There are, however, several exceptions to this rule, including allowing some status offenders to be detained for up to 24 hours. The DSO provision seeks to ensure that status offenders who have not committed a criminal offense are not held in secure juvenile facilities for extended periods of time or in secure adult facilities for any length of time. These children, instead, should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, family support, and alternative education.

**Adult Jail and Lock-up Jail Removal:** Under the JJDP Act, youth may not be detained in adult jails and lock-ups except for limited times before or after a court hearing (six hours), in rural areas (24 hours plus weekends and holidays), or in unsafe travel conditions. This provision is designed to protect children from psychological abuse, physical assault, and isolation. Children housed in adult jails and lock-ups have been found to be eight times more likely to commit suicide, two times more likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon than children housed in juvenile facilities.

**Sight and Sound Separation:** When children are placed in an adult jail or lock-up, "sight and sound" contact with adults is prohibited under the JJDP. This provision seeks to prevent children from threats, intimidation, or other forms of psychological abuse and physical assault. Under "sight and sound," children cannot be housed next to adult cells, share dining halls, recreation areas, or any other common spaces with adults, or be placed in any circumstance that could expose them to threats or abuse from adult offenders.

**Racial and Ethnic Disparities:** Under the JJDP, states are required to assess and address racial and ethnic disparities at key points in the juvenile justice system - from arrest to detention to confinement. Studies indicate that youth of color receive tougher sentences and are more likely to be incarcerated than white youth for the same offenses. With youth of color comprising one-third of the youth population but two-thirds of youth in contact with the juvenile justice system, this provision requires states and local jurisdictions to create action plans to address disparities within their systems.

The following link provides more information regarding the JJDP Act core requirements: <https://www.juvjustice.org/juvenile-justice-and-delinquency-prevention-act/core-requirements>

Each year, the OJJDP creates a Determination of State Compliance report for each participating state and territory. The OJJDP formulates this report by compiling data submitted from each participating state and territory to create uniform compliance determination standards for all participating states and territories. The compliance standards from the previous reporting year are used, in part, to establish formula grant program funding level allocations for each state and territory for the upcoming funding year.

Pursuant to 28 C.F.R. § 31.303(f)(6), the OJJDP calculated FY 2019 compliance standards by taking the average of States' FY 2017 and FY 2018 compliance monitoring rates for the Deinstitutionalization of Status Offenders (DSO), separation, and jail removal core requirements (removing, when applicable, one negative outlier<sup>[1]</sup> for each requirement) and applying a standard deviation factor of not less than one. The process of establishing the compliance determination standards rests solely with the OJJDP.

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<sup>[1]</sup> In calculating standards for the FY 2019 data collection period, excluded outlier rates were as follows: Idaho (11.34) for DSO; Massachusetts (181.58) for separation; and West Virginia (17.05) for jail removal. Compliance determinations based on review and analysis of the federal fiscal year 2019 Compliance Monitoring Report and the 2020 R/ED Plan, by OJJDP.



For FY 2020, the OJJDP determined South Carolina was compliant with all JJDP Act core requirements, according to the data submitted for FY 2019 (October 1, 2018 - September 30, 2019) reporting period. Compliance with all core requirements brought South Carolina back into compliance after the 20% reduction of Title II Formula funds from the FY 2018 reporting year, in which South Carolina was noncompliant with the Deinstitutionalization of Status Offenders core requirement. States must comply with all core requirements for full eligibility in the Title II Formula Grant program.

The following link provides more information regarding OJJDP's State Compliance Determinations: <https://ojjdp.ojp.gov/states/state-compliance-jjdp-act-core-requirements>

## TITLE II FORMULA GRANT PROGRAM

The Office of Juvenile Justice and Delinquency Prevention, headquartered in the U.S. Department of Justice, provides federal funding to the states through formula funding under Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as reauthorized by the Juvenile Justice Reform Act (JJRA) of 2018. Congress allocates funds annually to support states and communities in their efforts to develop and implement effective and coordinated prevention and intervention programs and to improve juvenile justice systems that protect public safety, hold offenders accountable, and provide treatment and rehabilitative services to meet the needs of juveniles and their families.

Grant recipients may include private not-for-profit agencies, units of local government, and state agencies. The Title II Formula Grant program supports projects involved with alternatives to secure confinement, the deinstitutionalization of status offenders, and reduction in racial and ethnic disparities in the state's juvenile justice system. Funds from the Title II Formula Grant Program also support the administration of subgrants, the Governor's Juvenile Justice Advisory Council, and monitoring of South Carolina's compliance with the federal core requirements of the JJRA of 2018.

The JJDP Act of 1974 as reauthorized by the JJRA of 2018 establishes Program and Budget Areas to provide specific governance of how states must expend Title II funds. The OJJDP sets Program and Budget Areas annually, but the priority areas may change periodically to reflect the OJJDP's juvenile justice and delinquency prevention mission. Currently, there are 34 priority areas for states to expend Title II funds. Each state must list their Program and Budget areas in their Three-Year State Plan to receive a Title II allocation. States can only expend Title II funds on Program and Budget Areas as designated by the OJJDP. The Council sets the Program and Budget Areas for South Carolina, based on the juvenile justice needs of the state.

South Carolina's Program and Budget Areas (as identified by the Council's current Three-Year State Plan covering FY 2018 - FY 2020):

- ✚ Alternatives to Pretrial Detention of Youth
- ✚ Deinstitutionalization of Status Offenders
- ✚ Diversion of Youth from the Formal Justice Process
- ✚ Compliance Monitoring
- ✚ Disproportionate Minority Contact (Switched to Racial and Ethnic Disparities under Juvenile Justice Reform of 2018)
- ✚ Indian Tribe Programs

The Council is working to create the new Three-Year State Plan covering FY 2021 - FY 2023. The new plan will update the state's existing priority areas to ensure South Carolina meets the requirements of the JJDP Act and to guarantee the state provides funding for programs that effectively address its current juvenile justice challenges. The new priority areas will emphasize community-based services for youth and their families, pre-trial alternatives to secure detention, providing treatment for system-involved youth suffering from mental illness, supporting Indian Tribe programs, reducing racial and ethnic disparities, in addition to maintaining compliance with the JJDP Act core requirements.

## 2019 TITLE II FORMULA GRANTS

OJJDP allocated \$468,671 in Title II formula funds to South Carolina for the FY 2019 funding cycle (October 1, 2019 - September 30, 2020). OJJDP allocated an additional \$25,604 to South Carolina for the year in formula funds to comply with the federal Prison Rape Elimination Act, or PREA. For FY 2019, South Carolina was noncompliant with the Deinstitutionalization of Status Offenders (DSO) requirement, as determined by the FY 2018 reporting data. Additionally, OJJDP penalized South Carolina for noncompliance with the Prison Rape Elimination Act (PREA) program. The allocation is minus \$93,734, which accounts for the 20% reduction for non-compliance with the DSO core requirement of the JJDP Act.

The South Carolina Department of Public Safety's Office of Highway Safety and Justice Programs (OHSJP) administers the formula funds under the Juvenile Justice Reform Act. In December 2018, the OHSJP issued an announcement regarding the availability of federal funding for juvenile justice grant projects in FY 2019. The OHSJP convened a statewide grant solicitation workshop in January 2019 inviting interested applicants to attend and learn about the availability of juvenile justice formula grants and their criteria. The OHSJP then opened its Grants Management Information System for the receipt of applications and received nine applications before the solicitation closed on April 19, 2019. The nine applications collectively requested \$944,983 in federal funds. The OHSJP staff collated and forwarded all applications to the Council's Grants Review Subcommittee. The subcommittee scored the applications and made recommendations to the Council. The full Council approved the recommendations during its August 9, 2019, quarterly meeting.

The South Carolina Public Safety Coordinating Council must approve all criminal and juvenile justice grant funds. The Coordinating Council met on September 30, 2019, to vote on the GJJAC recommendations. The Coordinating Council approved \$452,769.00 in grants recommended by the GJJAC including five formula awards: one to the office of the 15<sup>th</sup> Circuit Solicitor; two to the University of South Carolina Children's Law Center; one to the S.C. Department of Juvenile Justice; and one to a non-profit organization. Those projects addressed the DSO core requirement, alternatives to detention, and reduction in racial and ethnic disparities or R/ED. The Coordinating Council also approved \$25,604 in funding for SCDJJ under PREA.

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\*Per the OJJDP Title II Formula PREA solicitation, SCDJJ is the only agency eligible for funding.

## 2020 TITLE II FORMULA GRANTS

OJJDP allocated \$669,871 to South Carolina in Title II formula funds for the current FY 2020 funding cycle (October 1, 2020-September 30, 2021). OJJDP allocated an additional \$31,191 to South Carolina for the year in formula funds to comply with the federal Prison Rape Elimination Act, or PREA. The increase is partly due to South Carolina gaining compliance with all core protections of the Juvenile Justice Reform Act since FY 2019.

The Office of Highway Safety and Justice Programs issued an announcement regarding the availability of federal funding for juvenile justice grant projects in December 2019 and convened the statewide grant solicitation workshop for interested applicants on January 13, 2020. The OHSJP then opened its Grants Management System for the receipt of applications and received seven applications before the solicitation closed on April 17, 2020. The seven applications collectively requested \$1,011,232 in federal funds. The staff forwarded the applications to the Council's Grants Review Subcommittee. The subcommittee scored the applications and made recommendations to the Council. The full Council approved the recommendations during its August 14, 2020, quarterly meeting.

The South Carolina Public Safety Coordinating Council met on September 22, 2020, to vote on the GJJAC recommendations and approved applications for \$385,587.00. These included three awards to state agencies - one for the state Department of Juvenile Justice and two for the University of South Carolina Children's Law Center, and two awards to non-profit organizations. Those projects address the DSO core requirement, alternatives to detention, racial and ethnic disparities, aftercare and reentry of youth released from confinement, and the Prison Rape Elimination Act, in addition to other priority program areas. The Coordinating Council also approved \$31,191 in funding for SCDJJ under PREA.

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\*Per the OJJDP Title II Formula PREA solicitation, SCDJJ is the only agency eligible for funding.

# SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE

*From Freddie B. Pough,  
Agency Executive Director*

*Via email*

Good evening Jay,

Thank you for asking for input from the Department of Juvenile Justice as it relates to the juvenile justice system in our state. I do want to note that I would like to continue having this line of open communication with GJJAC. I think it would aid both, the council and the department, with ensuring the young people impacted by the juvenile justice are receiving the most efficient services and achieving the maximum outcomes available to them.

Essentially our guiding philosophy under this administration has been based around the ideal that the Agency's framework for improving long-term outcomes marries accountability with rehabilitation. We set forth a plan that will change the trajectory for troubled youth, by incorporating three cornerstones; Regionalization, Juvenile Justice Reform, and the Juvenile Detention Alternative Initiative (JDAI). They serve as a road map for reducing system penetration for low risk offenders and enhancing programs and services to rehabilitate justice involved youth. These efforts are inherent in the Agency's mission and vision and with reframing the manner in which youth are served throughout the system. Moreover, these initiatives, along with the priority to improve conditions of confinement, have fundamentally shifted agency operations and will ultimately benefit youth, families and the citizens of South Carolina.

As you are aware, our Regionalization Initiative represents a fundamental shift in the housing plan for the Agency. This multi-year project involved the creation and implementation of construction, staffing and programmatic plans. The target completion date is spring 2021. This residential paradigm shift will enable youth in the long-term facility to be housed in smaller regionally located settings closer to their home communities. Research indicates that youth housed smaller settings in close proximity to their families have better long-term outcomes and lower recidivism rates when compared to youth confined to larger facilities with

less visitation. At present, SCDJJ operates one long-term facility, the Broad River Road Complex (BRRC) and three regional evaluation centers. BRRC and one of the evaluation centers are located in Columbia. The two other evaluation centers are in Union and Ridgeville, SC. Because distance is a proven barrier to family engagement, BRRC, though centrally located, is not conducive to visitation or familial participation in treatment or education programming for most of its residents. A recent survey revealed that most of families of the BRRC residents live at least 75 miles away from the facility. With Regionalization, secure evaluation services will be centralized and located at the Midlands Evaluation Center in Columbia leaving BRRC and the two remaining evaluation centers to be re-purposed as regional long-term facilities. This will dramatically decrease the distance between the long-term facilities and families making it easier for most families to participate in their child's rehabilitation.

As I stated above we are very committed to reforming the juvenile justice system. We believe that this effort is one that most practitioners can agree upon and one that GJJAC can truly help us get accomplished. As you know system reform will improve public safety and reduce recidivism resulting in better outcomes for youth by focusing costly out-of-home secure confinement on the most serious/highest risk offenders and by strengthening community supervision and resources to hold youth accountable. I know this council has reviewed our reform proposal submitted to the Senate Select Committee in great detail and we still stand by the data and national best practices that we would like to see adopted by the state. We are also keenly aware that the reform efforts being made in South Carolina are no small task and we certainly would welcome the council embracing those changes, meeting with legislators, and educating the community about why this is necessary and why the time is now. Your broad reach is exactly what we need to get law enforcement, solicitors, public defenders, family court judges, along with all the child serving agencies in the state all to the table to accomplish this goal. We hope that you will take us up on this suggestion.

In addition to all the other great work happening for juvenile justice in this state, our department applied to become a Juvenile Detention Alternative Initiative State Scale Site. This initiative is funded and in partnership with the Annie E. Casey Foundation and is designed to support state efforts with technical assistance that allows jurisdictions to safely reduce reliance on detention utilizing the following eight core strategies: collaboration, data-driven decision making, eliminating racial/ethnic/gender/geographic/offense disparities, case

processing, object admissions screenings, special detention populations, alternatives to detention and conditions of confinement. DJJ's JDAI work is focusing on the "front-end" of the juvenile justice system which involves prioritizing the elimination of inappropriate/unnecessary pre-adjudicatory detention along with:

- Minimizing Failure to Appear and incidences of delinquent behavior
- Redirecting public finances to more effective reform strategies
- Reducing racial/ethnic/gender/geographic/offense disparities
- Improving conditions in secure detention facilities

JDAI embodies the key components of GJJAC and the governing act. We feel certain you all will be a great partner as it relates to the implementation of this effort. JDAI will provide GJJAC with a roadmap to accomplish your annual reporting goals. We do hope you will stay in contact with us and become apart of our implementation team.

Jay, as you can see my administration is working tirelessly to impact the change we know will provide the best outcomes for the young people impacted by the juvenile justice system in our state. Again, we thank you for the opportunity to share what we believe will give us the greatest opportunity for change and to recommend areas of focus where we think the council can be of most assistance. If you need anything else from us or if we can provide you with any additional information don't hesitate to contact me.

Take care and Happy Holidays,  
Freddie



# SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES

*From Michael Leach  
Director*

*Sent Via email*

The COVID-19 pandemic has intensified the need in South Carolina to overhaul the current child and family system into a 21<sup>st</sup> century well-being system approach where families seeking help are viewed as showing strength and resiliency instead of stigmatized or portrayed negatively. This is true for youth involved in the Juvenile Justice system, and especially for those impacted through dual involvement with Juvenile Justice and Social Services.

Society collectively must be cognizant of all the potential socioeconomic consequences this pandemic has already caused to communities and those yet to see. Pre-pandemic, in South Carolina, there is a pervasive struggle to identify services and service providers across the state available to provide appropriate and quality treatment for youth and their families. This struggle has only been amplified by the pandemic, and those most impacted are those that need the service the most.

Knowing this, South Carolina needs to make a commitment to collectively search for increasingly sophisticated and proactive, preventative ways to treat trauma and address the underlying symptoms that may be driving a family's inability to meet their most basic, fundamental needs. South Carolina needs to fund systems that care for children and families, systems that have been underfunded since the last recession over 10 years ago. This can look like funding and building prevention strategies like community family resource centers, social-emotional learning opportunities, early childhood visitation programs, increased in-home intensive support services for families, and innovative ways to strengthen individual and family financial security.

Additionally, staff and systems must be engaged in discussion and action around the issue of bias in decision making based upon implicit bias and racial bias. In South Carolina, Black and African American youth are overrepresented in many of our systems and often are

subject to the most dire outcomes for their future as adults. We must join together to confront racial and exposure bias by being cognizant of decisions that may be influenced by bias on the basis of race and/or a focus on information that confirms pre-existing attitudes. As a social services system, SCDSS recognizes it is not immune to the challenges posed by racial bias. We acknowledge that there are times when families we serve enter our system as a result of bias, racism, and lack of access to resources. We also recognize that these challenges affect you, our partners, as well.

We must change our perception and our mindsets toward true inclusion if we truly want to help support and strengthen families. We need to ask ourselves- how does the community, as a whole, engage and support families to meet their full range of needs, especially during a pandemic when a family's whole world is having to adapt.

Working together, collectively there is the ability to transform the child and family serving system in South Carolina. This transformed system must be driven by the communities it serves, have a robust array of quality treatment services, and be focused on removing the stigma associated with asking for and receiving help. If achieved, this transformed system can truly provide for the holistic well-being of children and families in South Carolina across all sectors of service.

Sincerely,

Michael Leach

# SOUTH CAROLINA DEPARTMENT OF CHILDREN'S ADVOCACY

*From Amanda F. Whittle, J.D., CWLS  
State Child Advocate and State Director*

*Sent Via email*

Dear Chairman Elliott:

Thank you for the opportunity to provide information for the Governor's Juvenile Justice Advisory Council (GJJAC)'s 2020 Annual Report.

As you know, the Department of Children's Advocacy (DCA) became a new agency effective July 1, 2019. The DCA was created to administer the Continuum of Care, Foster Care Review Board and Guardian ad litem divisions in addition to establishing a toll-free complaint line and online complaint submission process regarding complaints and concerns regarding services provided to children by nine state agencies, one of which is the Department of Juvenile Justice.

I met with Director Pough before the agency officially started on July 1, 2019 and have communicated with him regularly since that time. In addition, S.C. Department of Children's Advocacy Deputy Child Advocate Kayla Capps and I have engaged in intentional communication and work with GJJAC and the Systems Improvement Committee since February of 2020.

The most serious issues that we have encountered for youth who are involved with the Department of Juvenile Justice are: (1) Seriously mentally ill children who cannot be lawfully detained at DJJ but for whom there is no available mental health treatment placement and (2) the number and length of secure evaluations that occur.

## **Support for Appropriate Placements and Services for Severely Mentally Ill Youth.**

DJJ struggles with the lack of placements with appropriate services that will accept children who are seriously mentally ill. There are no facilities that unconditionally and unequivocally accept (and retain) justice-involved, severely mentally ill youth. DJJ must compete with other

agencies and other states for private placements. I recommend that the GJJAC support and promote funding for a state Psychiatric Residential Treatment Facility (PRTF) that would provide placement and treatment for severely mentally ill, justice-involved youth. This would need to be a joint collaboration among DJJ, DMH and DHHS.

**Support for Community Evaluations and Alternative Placement.**

In legislative hearings, DJJ Director Pough has provided testimony regarding the number of secure evaluations that occur, the length of time youth are detained as opposed to the actual time required for the evaluation, and the cost for the 45-day secure evaluation. DJJ seeks to reduce the number of secure evaluations based upon the benefit to the youth (by placing youth in a less restrictive setting when appropriate, based upon the child's circumstances) and based upon the cost benefit (of a community evaluation as opposed to a secure evaluation). Secure evaluations are sometimes ordered because there may be a desire to "teach the child a lesson" with an early detention when the adjudication is not contemplated to include confinement. Secure evaluations are also ordered, because there is a concern that the child's home or community is inappropriate. Having children undergo secure evaluations places an increased burden on DJJ security and other resources.

DJJ Director Pough has communicated with Family Court Judges, Solicitors, Public Defenders and law enforcement regarding detention/secure evaluation alternatives. In addition, Deputy Capps has communicated with Short Term Placement Providers (STAPs) across the state regarding placement diversion and has been involved in promoting their use when appropriate. Deputy Capps and I appreciate the opportunity extended by the State Advisory Group to participate in the Coalition for Juvenile Justice national conference, and we are looking forward to learning more about the initiatives and reform efforts shared during the conference. I recommend that the GJJAC support and promote funding for quality, intensive community-based services and alternative placements to reduce the number and length of secure evaluations. Thank you for your work.

Yours truly,  
Amanda F. Whittle

# SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH

*From Dr. Kenneth Rogers, M.D.  
State Director*

*Sent Via email*

Dear Mr. Elliott:

Thank you for the opportunity to collaborate in our State's efforts to improve the delivery system for juveniles who interface with the Juvenile Justice System. South Carolina Department of Mental Health is committed to a role in the systems of care needed to advance treatment options and improve the trajectory of our youth.

The ability to successfully maintain youth in their homes, schools, and communities continues to be a priority of the department. Increasingly more difficult, given the challenge of a lack of adequate funding, community based options which have historically contributed to less of a reliance on Psychiatric Residential Treatment Facilities (PRTFs) and incarceration no longer exists. Investing in community alternatives to incarceration and PRFT's will not only save dollars, but improve the outcomes for the young people we serve. Increasing the availability of Wrap Services to include: Behavioral Modification, Family and Peer Support Services, Psychiatric Rehabilitation, and Respite Care, would go a long way towards keeping families together and preventing the need for the deeper end services. Increasing challenges have also been noticed for the 18-25 population. Funding the *Raise the Age* Legislation to increase diversion and early treatment opportunities as well as housing options for young adults in our state is also needed.

Given the many challenges families are facing and the severity of illnesses presenting, funding is needed if the department is to reopen a state-operated Psychiatric Residential Facility. A PRTF that is designed to meet the severity of illnesses presenting at the juvenile justice facilities could actually save dollars and keep our youth in state. Additional challenges include the ability to recruit and retain qualified clinicians through competitive salaries and to support a Medicaid structure that will increase access to those evidenced based/evidenced informed practices and supports that have proven to be effective.

Thank you in advance for your efforts to improve the system of care for juveniles and their families struggling with serious mental illness as well as those with developmental, emotional and behavioral health challenges.

Sincerely,  
Kenneth Rogers

# GOVERNOR'S JUVENILE JUSTICE ADVISORY COUNCIL RECOMMENDATIONS

1. The Council supports the passage of legislation, which was included in Senate Bill 1018 during the 2019-2020 Session, and any subsequent legislation that reforms South Carolina's juvenile justice system and enhances programs and services for system-involved youth and their families. The passage of such legislation would alleviate several major issues plaguing the juvenile justice system and assure that South Carolina maintains compliance with the JJDP Act.

- Prohibit the pre-trial detention of status offenders
- Ensure court order violations align with the Juvenile Justice Reform Act of 2018 (JJRA). The JJRA allows the state to use the Valid Court Order exception to place status offenders in secure detention, but not exceeding a period of seven days. The VCO exception can only be used after due process is followed and a judge determines secure detention is in the best interest of the child. VCO's can not be extended or renewed.
- Reduce the length of secure evaluations from 45 days to within seven days to align with the JJRA.
- Ensure each judicial circuit operates a diversionary program
- Create alternatives to secure confinement for non-violent youth
- Invest in community-alternatives to incarceration
- Ensure *Raise the Age* Legislation funding is adequate to serve the 18-25 population for housing, reintegration, diversion, early treatment, job training, in addition to other reentry services.

2. The Council recommends a thorough examination of the GJJAC membership roster to ensure the state maintains compliance with the JJDP Act requirements. Also, update the membership roster to include professionals with expertise beyond juvenile justice, but spanning community-based services and resources (Workforce and Development, Chamber of Commerce, Law Enforcement, Human Services, other community partners, etc.).

3. The Council recommends the state allocate adequate funding to child serving agencies to provide community-based prevention programs, services, and resources for youth and their families to prevent system involvement. This Council is committed to community-based

programs and services that divert youth away from further system involvement and incorporates their families as partners in the justice process.

4. The Council recommends the state adopt and promote proactive agenda items that seek to reduce racial and ethnic disparities statewide. Racial and ethnic disparities are not unique to the juvenile justice arena, as inequities are present in the social services and child welfare, mental health, education, and other vital areas that intersect with juvenile justice.

5. The Council recommends the state analyze its Human Resource functions to ensure South Carolina's child-serving agencies can recruit and retain highly qualified employees to maintain public safety, provide treatment services, and sustain high juvenile justice standards. Offering competitive compensation for employees, particularly those in critical need areas like security and clinicians, will be very helpful to make sure our youth receive proper care.

6. The Council recommends the state increase the availability of wrap services to system-involved youth and their families. These services include Behavior Modification, Family and Peer Support Services, Psychiatric Rehabilitation, and Respite Care.

7. The Council recommends the state provide support for appropriate placements and services for severely mentally ill youth. Reopening Psychiatric Residential Treatment Facilities (PRTF) provides services and treatment for system-involved youth, who currently may not receive appropriate treatment due to their placement. Collaborations among DJJ, DMH, DHHS, and any other involved stakeholders can help to accomplish this recommendation.

8. The Council recommends the state support a Medicaid structure that distributes funds, which will increase access to evidence based/evidence informed practices and supports methods proven as effective.



# **SOUTH CAROLINA GOVERNOR'S JUVENILE JUSTICE ADVISORY COUNCIL**

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