

# Juvenile Justice Public Safety Improvement Act Oversight Council

August 21, 2019

Rapid City, South Dakota

## *Deep Dives and Action Items for Fall 2019 Meeting*

- **Deep Dive**
  1. What types of services would have been necessary for current DOC youth per circuit;
  2. What do the youth look like that pose unique challenges to the system;
  3. What resources are available in the community when a child is denied by the SRT and why it is difficult to place DOC youth in South Dakota PRTF beds.
- **Action Items**
  1. Create a data-sharing process between Tribal Relations and DOC about committed youth;
  2. Share Arise Program Model;
  3. Create Odyssey report to show why a youth is unsuccessful on probation;
  4. Create Odyssey report to show how many youth receive multiple citations;
  5. Review the reasons for JJRI non-completers;
  6. Compile the arrest data to determine if further information related to drug arrests exists particularly substance of choice and reconcile RCPD and Attorney General's Office number;
  7. Compile the main diagnoses of SRT youth.

## *Meeting Documents*

- [Agenda](#)
- [4th and 7th Services Report](#)
- [Behavioral Health Barometer](#)
- [Deep Dive](#)
- [Juvenile Drug Related Adjudications Data Presentation](#)
- [Juvenile Drug Related Arrest Data](#)

## Call to Order

Chairman Greg Sattizahn called the meeting to order at 10:10am.

### **Present**

- |                       |                         |                                       |
|-----------------------|-------------------------|---------------------------------------|
| • Greg Sattizahn      | • Sen. Alan Solano      | • Kristi Bunkers                      |
| • Angela Shute        | • Judge Scott Myren     | • Kelly Marnette                      |
| • Chuck Frieberg      | • Secretary David Flute | • Rep. Kevin Jensen<br>(by phone)     |
| • Bryan Harberts      | • Justice Janine Kern   | • Justice Steven Jensen<br>(by phone) |
| • Rep. Kelly Sullivan | • Tom Hart              |                                       |
| • Sen. Craig Kennedy  | • Lindsey Riter-Rapp    |                                       |

### **Absent**

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| • Tiffany Wolfgang | • Dr. Kelly Glodt | • Andrew Robertson |
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In addition to the Oversight Council members, there were several prosecutors, West River Legislators, workers from Lutheran Social Services, Rapid City Police Department officers, members from the Pennington County Sheriff's Department, employees of the Department of Social Services, Department of Corrections, probation officers, and judges in the audience.

Mr. Sattizahn opened the meeting by reviewing the work of the three subgroups that had been created during the May meeting.

#### *CART Team Discussion*

Mr. Sattizahn explained the legislative purpose of the CART (Community Response Team) team, how the CART team operates, and the background as to why a subgroup was convened for this subject. He noted that they were well-liked by the communities that use them, and discussed the potential for moving statewide with the CART team process or the possibility of creating a regional team based on geography. Mr. Sattizahn noted that there has been much interest generated in the model and that there was an agenda item on the fall judicial conference to discuss expansion.

Judge Myren informed the council that the regions that did not have CART teams would be bringing in CART team members from other circuits to help set up the initial process. He felt that eventually all circuits would be using some form of a CART team, whether it be local or regional. The type of CART team would largely depend on what types of resources were available. For example, the 7<sup>th</sup> circuit is resource intense, while the 4<sup>th</sup> circuit does not have as many options.

Senator Solano questioned what happens to a youth who goes through supervision but is ultimately unsuccessful. He noted that he thought a Deep Dive on this subject could be helpful determining what was missing. While the CART team may be excellent at handling concerns at the front end, there may be missed opportunities at the back end. Kristi Bunkers added that the number of youth in DOC has significantly decreased since the passage of the bill. Diversion has played a part in that decrease. However, it does mean that the youth that are coming through are more challenging and have different and unique needs. Mr. Sattizahn said that he thought it could be helpful to look at the children that do make it into DOC to see what types of services/interventions they use and what types of placements they need by circuit. Senator Solano agreed (***Deep Dive Item 1***).

Secretary Flute asked Ms. Bunkers about the communication with the tribe when a youth with a tribal affiliation enters DOC. He has not identified anything in tribal code that would prohibit DOC from obtaining tribal info. Ms. Bunkers answered that the DOC collects tribal information, but that there is room for improvement. It was an item that was discussed in the Focus Group and could use more work. Secretary Flute asked Ms. Bunkers to please let him know how he could help (***Action Item 1***).

#### *PRTF Discussion*

Mr. Sattizahn explained the purpose of the subgroup and recapped what was discussed in the meetings, as well as the importance of having communication and training at the school level. Tiffany Glaser, who was representing Tiffany Wolfgang, added that involving the schools will be an important piece to the discussions currently underway with probation staff, but they have had great conversations about what the State Review Team (SRT) does and does not do so far in those meetings. She added that the conversations are ongoing. Chuck Frieburg agreed, and added that the SRT understands that it is helpful to receive information back if recommendations are put forth. Having the providers together was helpful for the process, which is ongoing.

### *Bed availability*

Mr. Sattizahn discussed the bed availability subgroup, which focused on the demand for beds, the attempts to fill the gap for crisis stabilization beds, and short-term beds. He reported back that the NEMHC grant for this purpose had been denied. Stabilization beds could be a solution for several communities, as well as therapeutic foster care. Capacity, as well as cost, remains to be a significant challenge, as well as the criteria. The subgroup believed that the Community Mental Health Center would make the most sense to be the gatekeeper of such a process to ensure that the individual is receiving the needed treatment. Mr. Sattizahn added that it may make a worthwhile pilot, and it might make sense for an agency to issue an RFI to find out who would be interested.

Bryan Harberts from LSS informed the council that group beds are currently at 75 percent capacity, but if we want to keep a child connected to the community then it is impossible if the child must go to Sioux Falls for a bed. There needs to be stabilization, but also services. From his standpoint as a provider, they can approach a group home that is willing to partner—but it does not necessarily mean that a bed is available when it is needed. The capacity question is a big issue, as well as funding and custody questions. You need the right bed, the right time, and the right funding source for it to work.

Ms. Bunkers said that DOC had worked with McCrossen's Boys Ranch for beds. Most youth end up being long-term kids. She said she always recommended group care because she cannot identify a lot of children who successfully stabilized in three days. Additionally, it is often the parent who is struggling. Mr. Harberts questioned whether it would be the parent or the school that could access the service.

Senator Kennedy noted that if location was an issue, there may be availability in old detention centers. There may be an opportunity to reform old detention centers into treatment, not punitive, resources.

Senator Solano added that Senator Kennedy's comment sounded similar to the Arise Center in Rapid City. The Sheriff provides bed space, and LSS staff is available to help the juveniles. Commander Joe Gutierrez from Pennington County described the Arise Center, how it functioned, and how it is funded. He noted it was highly collaborative and is focused on the treatment side of the equation. Commander Gutierrez informed the group that there were beds for children going through court services, beds for DOC/tribal/emergency hold beds, and beds for runaway and homeless youth up to 21 days (funded through a federal grant.) He added the last set of beds, which is funded through a federal grant, was important because now homeless youth do not need a charge to get help. Sheriff Kevin Thom added that there was some pushback because it was attached to the detention center, but that was the only feasible location due to space shortages.

Senator Solano felt that the concept of getting to 48 or 72 hours of help is a huge step. While it may not be appropriate for statute, a rule that can create availability for up to 72 hours could be an improvement. If a provider serves a child for a certain number of days, there are high standards that must be met, but if the number of hours could be between 24-72 hours, it may make it easier to serve these juveniles.

Senator Kennedy thought it would be beneficial to share the Arise program model with other parts of the state. Communities may have space that could be repurposed. For example, there is space available in the Safety Center building in Yankton that he thought could potentially be used like an Arise program. Senator Kennedy suggested it would be a good idea to take the Arise program model and share it with

the state. Other members of the Council agreed that the program model should be shared. Several communities would be willing to have that type of conversation (**Action Item 2**).

## Deep Dive

Following the subgroup discussions, Mr. Sattizahn walked the group through the [Deep Dive](#) discussion. When discussing probation outcomes, Kelly Marnette, from the Attorney General's office, asked why some youth are unsuccessful on probation. Charles Frieberg replied that probation gets notified when there is an unsuccessful discharge, and it ranges from the youth being unable to finish treatment to the youth will not see their CSO, to the youth has been tested positive for marijuana. A youth is never considered unsuccessful because he or she cannot pay restitution. It is rarely because there is a new crime. There is not a report that can be run to list each reason, but Mr. Frieberg reviews each unsuccessful case. Judge Myren added that it was alarming that over one half of the probationers in the 7<sup>th</sup> circuit were considered unsuccessful. Mr. Frieberg explained that he had met with the chief court service officers to discuss what was being classified as an unsuccessful discharge. The judge signs off on the CSOs recommendation if it is appropriate for the situation.

Judge Jane Pfeifle of the 7<sup>th</sup> Circuit added that she puts juveniles on probation for 4 months. She did not like classifying a child as unsuccessful because they did not finish treatment. She felt that if the child did not finish treatment, but did not come back because of another charge, then there was some level of success for that case. Something in FFT may have worked even though the child did not completely finish it. Judge Pfeifle felt that there was a need to redefine how a case is classified in terms of successful or not successful. Many times, it is not the fault of the child that FFT was not completed. Judge Myren added that the council should look at the recidivism data to see how that works. Judge Pfeifle felt that there was a need to relook at recidivism, as well.

Mr. Sattizahn indicated that Charles Frieberg was creating a uniform data report to better define what it meant for a successful completion versus an unsuccessful completion. Currently, there are variations between each circuit as to how the terms are applied. Justice Kern agreed with the idea, and thought that it might be beneficial to have categories that indicated why the youth was unsuccessful, such as a truancy violation, continued substance abuse, or marijuana use. Judge Myren felt this would be a good addition and should at least be on the court orders. Mr. Sattizahn agreed, and said he would work with IT to see if more information could be generated in the report (**Action Item 3**).

At the juvenile citations portion of the Deep Dive, Kelly Marnette asked if there was any data available to indicate if citations were working. Mr. Sattizahn replied that there currently was no report available related to how citations relate to later petitions to formal court, but that it was something that could be created and would provide valuable information (**Action Item 4**). Judge Myren added that it could also be helpful to see how many petitions were filed for alcohol, petty theft, etc. A representative from the Rapid City Police Department noted that he thought there might be a drop-off in the number of citations filed because the RCPD stopped taking reports from Walmart for thefts under \$100 dollars.

Ms. Marnette questioned the RCPD representative about what occurs when a child has a citation. He responded that in most cases the child is released to the parent, or will go to the Arise program and wait. Sheriff Lamphere added that in his county the youth will often wait in the sheriff's office for his or her parent. Law enforcement does not just let a child go after a citation.

During the diversion discussion, Senator Solano emphasized the importance of expanded diversion. He indicated that he thought it was a great success story, but that he did not think entities would pursue diversion if the fiscal incentive vanished. Ms. Bunkers replied that the DOC was working with the Governor's Office to grow the diversion fund. The ideal scenario would be a fund that was large enough that it was unnecessary to prorate claims. Senator Kennedy asked Ms. Bunkers why several counties did not participate. She answered that it is up to the counties. It could be that the county did not have any juveniles that needed diversion. Outreach has been made to the counties that have not filed claims, and they are aware of the program. A court service officer from the 7<sup>th</sup> circuit added that he had reached out personally to the un-participating counties. Senator Solano asked if tribal programs would qualify. Judge Myren responded that there was nothing in statute that would prevent the presiding judge from approving a tribally operated program; however, the reimbursement would go to the county.

### *DSS Presentation*

Tiffany Glaser from DSS explained the [4<sup>th</sup> and 7<sup>th</sup> Circuit JJRI Service Report](#).

Ms. Marnette asked why there were youth that did not finish services. Bev Mentzer from DSS responded that there are some families and youth who do not engage with the service. It could be due to incarceration, mental health issues, or other difficulties. Engagement is a challenge. A member of the treatment community added that it is often due to the lack of cooperation between a juvenile and a parent, and parents who disengage (**Action item 5**).

A member of the audience asked what efforts were being made to make services more intense in rural areas. Ms. Glaser Glaser responded that while JJRI funded services are not always available, providers have a broader array of available services and that there were other options.

A member of the treatment community in the audience indicated they have the best chance of engaging with a family within 7-10 days of referral, after that it becomes very difficult. If the provider knows someone will be in court that day, the provider will show up because that is the best time to engage. The provider also added that it can be difficult to retain therapists who can use FFT. His office made sure that FFT providers also did other JJRI work as a way to diversify their caseload and make it easier on the therapist. Ms. Glaser added that the FFT turnover rate is typically at about 50 percent, which is consistent with nationwide averages for the behavioral health field.

Mr. Sattizahn added that he had heard from the CSOs that some providers are better than others. He asked if DSS scores the providers and uses objective standards to rate the output of those administering the service. Ms. Glaser responded that internal benchmarks were used, but those were not released publicly. If a provider is not reaching certain standards, the department creates a quality assurance plan to get them back on track. However, the vast majority of the facilitators are in good standing. Lindsey Riter-Rapp asked if the data was broken down geographically and if there were available trends—i.e. if the 6<sup>th</sup> circuit has less MRT referrals than the other circuits. Ms. Glaser responded that that information is tracked.

Representative Kelly Sullivan questioned the placement aspect of matching a youth with a provider. A member from the provider community indicated that it is important to match providers that work well with the child; it is not a random assignment. He also added that part of a therapist's training is to adapt to the client. However, if it still isn't a good match, efforts will be made to find one.

Senator Solano asked what types of judicial remedies were available to put a parent in front of a judge if the parent does not engage. A court service officer responded that they typically do an order of protection. An order of protection is also used with truancy. A parent can also be charged if the parent is not taking their child to school. Senator Solano wondered if there were successes with the truancy citations. A prosecutor in the audience indicated that she charges a parent when the child is in elementary or middle school, but not when the youth is in high school. She added that there are often mixed results with charging the parent. There was additional discussion about what types of statutory changes could be made to hold the parent accountable if a child is not cooperative. The use of sanctions versus incentives was also discussed.

Ms. Glaser ended the DSS presentation by walking the council through the [Behavioral Health Barometer](#) document to discuss the state's youth substance abuse and mental health and service use from a behavioral health perspective.

## Public Input

*\*Due to the number of individuals present, the Public Input portion of the agenda was moved up in the agenda.*

A member from the Rapid City Police Department felt that there were some key components missing related to public safety. He described several cases where a child had contact with law enforcement but was not sent to the DOC. Mr. Sattizahn asked what had changed with SB 73 that impacted those youth since the offenses described were all committable offenses. The member from the RCPD felt that the arrest numbers are up and the volume made it an issue. Ms. Glaser indicated that if he identified the children, DSS could help point to what services would be available and help the child access the services. Justice Kern felt that more social workers in the school would be helpful to alleviate some of the pressure. Early identification could redirect a child's path.

Ms. Bunkers added that the state still has the same number of beds available pre-and post-reform. She added that group homes are also available, but that there was still room for improvement and creativity. Justice Kern questioned where all the reinvested funds went with SB 73 and wondered if there was a better way to reinvest the money. Senator Solano felt that it could be beneficial to invest smaller amounts earlier into the process and invest in the right screening tools. Ms. Glaser noted that the Division is currently exploring further expansion of Systems of Care services in the state to help support earlier intervention. Remediation is expensive, but there are ways to prevent a case from progressing that far. The representative from the RCPD agreed that therapy and interventions would be a great step.

Terry Dosch added that he felt that, regardless of the policy decision, it was necessary to form the solution on data. While anecdotes are valuable to form the question and develop the hypothesis, the weight-bearing solution should be built with data. A member from the provider community agreed. He felt that there would always be a handful of kids that would provide unique challenges, but policy cannot be created to address the needs of five youth when it works for the majority of the other youth. He added there were lots of underutilized options available, such as telehealth. There was additional discussion about how and why the anecdotes do not match with the data.

A member from the audience reported that there are between 1200-1400 youth in the Rapid City area that had a CPS referral, but received a rejection letter saying that the youth's circumstances did not rise to the level of CPS involvement. She felt that there were youth in this dataset that might find themselves

later in the juvenile justice system. A member from law enforcement added that this was a point of frustration.

It was decided that the Oversight Council staff would do a deep dive on the handful of youth that were referenced in the discussion and report back to the council at the next meeting (**Deep Dive Item 2**).

### Juvenile Intensive Staffing Collaboration

Mr. Sattizahn described a new process that was being used to help staff the more challenging cases. If a court service officer has a case and he or she is unsure how to proceed or feels that there are no alternatives after all the community services have been tried, then the case will rise to the state level and Mr. Frieberg, Mr. Sattizahn, and representatives from DOC and DSS will meet to discuss viable options. In the past two months, there has not yet been a child who has been referred up to the state level, but it was expected that the number would increase with the commencement of the school year.

### Juvenile Controlled Substance Usage

Mr. Sattizahn discussed an article that had been recently written about the juvenile drug arrests in the state. Using FBI data, the report ranked states for drug usage and indicated that South Dakota performed poorly. Mr. Sattizahn commented how the FBI has disclaimers on the database that asks users not to rank states due to discrepancies in reporting metrics so he questioned whether the article was accurate or how to best determine what is happening; however, it was an area that the council had not yet discussed but should be part of our work. Mr. Sattizahn reviewed a UJS [powerpoint](#) showing adjudications and county breakdowns. The council reviewed [numbers](#) that had been provided by the Attorney General's office related to controlled substance use. The numbers did not match the article's narrative. Angela Shute, from the Pennington County State's Attorney's Office, commented that she had been seeing more marijuana and ingestion cases. If there was a possession case, the office attempted to resolve it. They had a large number of juveniles entering treatment, which is another reason case wouldn't be resolved. If a youth completes the treatment successfully, then the cases is dismissed. Ms. Shute added that she was not surprised at the high number of ingestion cases in Pennington county. Judge Myren asked if more information was available through the Attorney General's office that would break down the substances. Ms. Marnette said she would try to find out more information about exact arrest data (**Action item 6**).

### Public Input, Continued

Mr. Sattizahn invited Rapid City Police Chief Karl Jegeris to share his thoughts. Chief Jegeris briefed the council on a grant his agency was currently pursuing that might help address the concerns. Instead of just focusing on the adult criminal behavior early, his entity was also focusing on juveniles. While there was a lack of funding to pursue the changes his agency wants to see, the department had a plan developed and ready. He also informed the members about the trauma informed policing initiative, which has given the officers a greater understanding of Native American history, and helps address some of the trust issues. Chief Jegeris noted that their outcome goal is greater compassion and more emotion, and to make a difference in the lives of the children they encounter. He also added that one of the ways the department is working to achieve this is through a police athletic league, trust building engagements, and outreach. For example, his department recently did a community mural with a group of youth. Senator Solano commended the department on the great work they have done and noted how important it was to have a police force as community-involved as the Rapid City force.

Next, a member from the DOC stationed in Rapid City brought up her concerns related to PRTF beds. She informed the council that there were 327 referrals to PRTF beds, and parents were the greatest referral source. Court services referred half as many as DOC. The state review team approves 85 percent of the youth referred, and the main diagnoses are depression, ADHD, and disruptive mood dysregulation disorder. She was concerned that there was no oversight over the children, and that the non-DOC children were being mixed with the DOC children, so the DOC children were often sent out-of-state.

Mr. Harberts responded that the whole goal is early intervention, and that there is an incorrect belief that parents are using the process just to offload difficult and unqualifying children. He felt that a deeper look into the actual diagnoses of the youth occupying the beds would be important, and he was not sure if he felt that the data picture was complete. Ms. Glaser added that all the SRT does is make a recommendation, but the approval comes from a certification team, which consists of two psychiatrists and a psychiatric nurse. The SRT is simply the first level—the final decision is made by experts. Ms. Bunkers said she thought it would be helpful for DSS to conduct a deep dive on the diagnoses (**Action Item 7**).

Mr. Harberts indicated that bed space continues to be a challenge. There will always be a percentage of youth that is difficult to place because it is important not to mix risk levels. The DOC representative from Rapid City added that while it is important to still serve the non-DOC youth, the DOC youth are the neediest juveniles in the state and that they were as deserving to remain in state as the other youth; it is not fair that they must be served in Utah or Georgia. Ms. Bunkers added that the problem is not that the DOC children are more unique than the other youth—the Gains-SS of DOC juveniles is similar to non-DOC youth.

Judge Myren said that this was the third meeting the PRTF/SRT process has been discussed, and it was necessary to either come to a resolution or leave it alone. Senator Solano concurred, and suggested a deep dive on why DOC youth cannot get PRTF beds inside the state. It would be important to find the missing elements that are preventing the youth from being placed. The group agreed that the deep dive into why DOC youth cannot get a PRTF bed in state and what resources are available when the youth is denied would be beneficial to future conversations (**Deep Dive Item 3**).

## Next Steps

It was decided that the next Oversight Council would take place in Sioux Falls, and the main subject matter would be the 2<sup>nd</sup> Circuit (Minnehaha and Lincoln) in either September or October.

The meeting concluded shortly after 4pm.