

JUVENILE JUSTICE SUBCOMMITTEE
September 1, 2019 – AUGUST 31, 2020

ANNUAL REPORT



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The Governor's Committee on Crime, Delinquency and Correction

Juvenile Justice Subcommittee Mission and Purpose:

The West Virginia Division of Administrative Services/Justice and Community Services serves as staff to the Governor's Committee on Crime, Delinquency and Correction, which was created in 1966 by executive order of the Governor, and was later codified into West Virginia Code §15-9-1, to develop a statewide planning capacity for the improvement of the state's criminal justice system. The Juvenile Justice Subcommittee was established following the passage of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended (42 United States Code Section 5601), to serve as the state advisory group to the Justice and Community Services for the administration of juvenile funds received by West Virginia under the JJDP Act.

The purpose of the West Virginia Juvenile Justice Subcommittee is to utilize funds to provide the necessary funding to research, develop and implement programs which benefit youth and all who are involved in the juvenile justice process, and support efforts to insure compliance with the core requirements of the JJDP Act.

Juvenile Justice Subcommittee Guiding Principles

The guiding principle of the Juvenile Justice Subcommittee is to prevent and reduce juvenile delinquency and to improve the juvenile justice system in West Virginia. This is done by subgranting funds to various private/nonprofit organizations, state agencies, and local units of government for delinquency prevention efforts that address the needs of the targeted at-risk youth population. Funding consideration will be given to projects that address these priorities:

- Interagency coordination of services for meeting the needs of targeted at-risk population.
- Alternative to school settings for youth who exhibit behavior problems to prevent youth from dropping out of school.
- Opportunities for children and youth to build their self-esteem.
- Activities that reduce peer pressure.
- Projects that encourage parental involvement by establishing a parental component as a part of the programming efforts.
- Crisis intervention services for youth who are exposed to domestic violence.
- Youth advocacy services or court-appointed advocates for youth involved in the court system.
- Direct services to victims of child sexual and physical abuse and neglect, and activities for prevention/awareness of child abuse.
- School safety programs, such as conflict resolution, peer mediation and gun/weapon control, which will decrease the incidence of school violence.
- Assessment of interagency cooperation and responsiveness of state services to this youth population.
- Assessment of the individual progress of the youth participating in the program through pretests and post-tests.
- Written assessment by youth and parents regarding program satisfaction or weaknesses.
- Documented support of the program from the state.

The Juvenile Justice and Delinquency Prevention Act Mandates

The Juvenile Justice and Delinquency Prevention (JJDP) Act, passed by Congress in 1974, authorized the States to administer local delinquency prevention and intervention efforts and juvenile justice system improvements. The goals of the JJDP Act are to ensure appropriate services, due process, proper treatment and safe confinement of juveniles who are involved in the juvenile justice system. States must commit to achieve and maintain compliance with the following four core requirements of the JJDP Act:

1. Deinstitutionalization of Status Offenders (DSO)

A status offender (a juvenile who has committed an act that would not be a crime if committed by an adult) or nonoffender (such as a dependent or neglected child) cannot be held, with statutory exceptions, in secure juvenile detention or correctional facilities. Status offenders and nonoffenders cannot be detained or confined in adult facilities for any length of time.

2. Separation of Juveniles from Adult Offenders (Separation)

Alleged and adjudicated juvenile delinquents cannot be detained or confined in a secure institution (such as a jail, lockup or secure correctional facility) in which they have sight or sound contact with adult offenders.

3. Adult Jail and Lockup Removal (Jail Removal)

Juveniles (individuals who may be subject to original jurisdiction of a juvenile court based on age and offense limitations established by State law) cannot be securely detained or confined in adult jails and lockups. However, the statute provides temporary hold exceptions for alleged and adjudicated delinquents and criminal misdemeanor offenders under conditions of separation and accepts juveniles waived or transferred to criminal court or felony charges.

4. Disproportionate Minority Contact (DMC)

States are required to address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system.

West Virginia's Compliance with the
Office of Juvenile Justice and Delinquency Prevention Act

**Plan for Removal of Status Offenders and Non-offenders
From Secure Detention and Correctional Facilities - Section 223(a)(11)
Deinstitutionalization of Status and Non-offenders.**

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has completed its review and analysis of Deinstitutionalization of Status and Non-offenders (DSO) for 2019. During the Federal Fiscal Year 2019, West Virginia had 50 Deinstitutionalization of Status Offenders (DSO) violations. Forty one (41) of these violations occurred in West Virginia's law enforcement offices and nine (9) occurred in juvenile detention facilities.

The following West Virginia Case Law and statutes corroborate the JJDP Act.

West Virginia Code §49-5-11 decriminalizes status offenders making it illegal to detain status offenders in secure facilities. Youth who are adjudicated status offenders are referred to the Department of Health and Human Resources for services.

Facilities Review Panel v. Coe (1992) establishes standards that prohibit secure facilities from admitting status and non-offenders.

C.A.H. v. Strickler (1979), states that "under no circumstances can a child adjudged delinquent because of a status offense be incarcerated in a secure, prison-like facility with children adjudged delinquent because of criminal activity."

Harris v. Calendine (1977), states that "under no circumstances can a child adjudged delinquent because of a status offense, (i.e., an act which if committed by an adult would not be a crime), be incarcerated in a secure, prison-like facility with children adjudged delinquent because of criminal activity."

Plan for Separation of Juveniles and Incarcerated Adults
Section 223(a)(12) Separation of Juveniles from Adult Inmates.

During Federal Fiscal year 2019, twenty five(25) violations occurred in West Virginia's law enforcement offices.

West Virginia will continue to provide training and technical assistance to secure and non-secure facilities. Regional trainings will be held in the upcoming year to address the specific needs and questions pertaining to the JJDP Act.

The West Virginia Supreme Court of Appeals, Administrative Order, effective July 1, 1997, charges the Division of Justice and Community Services of the Department of Military Affairs and Public Safety to monitor compliance with the State and Federal standards for juvenile detention facilities. The State will notify OJJDP if circumstances arise, or if resources are lost, which would jeopardize the State's capability to maintain compliance with the requirements of Section 223(a)(12).

The following West Virginia Case Law and statutes corroborate the JJDP Act.

West Virginia Code § 49-5-16 paragraph (a) states that "no child, including one who has been transferred to criminal jurisdiction of the court, shall be detained or confined in any institution in which he or she has contact with or comes within sight and sound of any adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges or with the security staff (including management) or direct-care staff of a jail or locked facility for adults."

The State provides assurances that adjudicated juveniles are not reclassified administratively and transferred to adult correction authority. Paragraph (b) of the above cited section states that "No child who has been convicted of an offense under the adult jurisdiction of the circuit court shall be held in custody in a penitentiary of this State....the child may be transferred from a secure juvenile facility to a penitentiary after he attains the

age of eighteen years if, in the judgment of the Commissioner of the Department of Corrections and the court which committed such child, such transfer is appropriate.”

M.N.L. v. Greiner (1987) created a “sight and sound” separation authority in stating that juveniles between the ages of 18 and 20 who remain under jurisdiction of the juvenile court may not be incarcerated within sight and sound of adult prisoners.

There are no approved “Juvenile Detention Areas” in any adult jail or lockup in West Virginia at the present time.

Plan for Removal of Juveniles from Adult Jails and Lockups
Section 223(a)(13) Removal of juveniles from adult jails and lockups

West Virginia juveniles are not to be detained in any jail or lockup for adults. There is no approved juvenile detention or co-located areas in any adult jail or lockup in West Virginia at the present time.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has completed its review and analysis of Jail and Lockup Removal for Federal Fiscal year 2019. West Virginia's one (1) jail removal violations involved a 17 year old emancipated minor who was taken to a regional jail and booked in, even though the 17 year old has gained emancipation through the courts the Federal government still considers them a juvenile and therefore considers this a violation. West Virginia will continue to provide training and technical assistance to secure and non-secure facilities. Regional trainings will be held in the upcoming year to address the specific needs and questions pertaining to the JJDP Act.

The West Virginia Supreme Court of Appeals, Administrative Order, effective July 1, 1997, charges the Division of Justice and Community Services of the Department of Military Affairs and Public Safety to monitor compliance with the State and Federal standards for juvenile detention facilities. The state will notify The Office of Juvenile Justice and Delinquency Prevention (OJJDP) if circumstances arise, or if resources are lost, which would jeopardize the state's capability to maintain compliance with the requirements of Section 223(a)(13).

The following West Virginia Case Law and statutes corroborate the JJDP Act.

West Virginia Code § 49-5-16 prohibits the detention of juveniles in any institution where "he or she has contact with or comes within sight and sound of any adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges or with the security staff (including management) or direct-care staff of a jail or locked facility for adults." It also prohibits detaining juveniles in state penitentiaries.

West Virginia Code § 49-5A-2 makes it unlawful to incarcerate a child under 18 years of age in a common county jail or police station lockup.

The State provides assures that adjudicated juveniles are not reclassified administratively and transferred to adult correction authority. West Virginia Code §49-5-16 (b) states that “No child who has been convicted of an offense under the adult jurisdiction of the circuit court shall be held in custody in a penitentiary of this State...the child may be transferred from a secure juvenile facility to a penitentiary after he attains the age of eighteen years if, in the judgment of the commissioner of the Department of Corrections and the court which committed such child, such transfer is appropriate.”

R.C.F. v. Wilt (1979), states “it is unlawful for Circuit Courts and Juvenile Referees to incarcerate a child under eighteen years of age in a common county jail prior to an adjudication of delinquency. Those provisions clearly manifest a legislative judgment that children will not be rehabilitated by detention in county jails along with adult offenders, and that detention, when necessary, in other types of facilities maintained exclusively for juveniles is more consistent with the rehabilitative goals of our juvenile delinquency legislation.”

Facilities Review Panel v. Coe (1992) states “The conditions outlined in West Virginia Code § 49-5-8(d) shall apply to all juveniles taken into custody, except that portion which refers to ‘the next judicial day’ shall instead be read as ‘the next day.’ Even when Circuit Judges and Juvenile Referees are not available, the rules and regulations for Magistrate Courts require a Magistrate to make a telephone contact with the jails and juvenile secure detention facilities under their jurisdiction each and every day to ascertain if any adult or juvenile has been detained since the last contact period and immediately provide for a hearing for that individual.”

Plan to Address Disproportionate Minority Contact (DMC)

Section 223(a)(22) Plan for compliance disproportionate minority contact

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has completed its review and analysis and determined that West Virginia is in compliance with Section 223(a)(22) of the JJDP Act. For the past several years the State Advisory Group has recommended funding for a Disproportionate Minority Contact (DMC) Statewide Coordinator. During the 2016 state fiscal year, the Juvenile Justice Subcommittee, along with the WV DJCS, decided to take DMC into a new direction by requesting proposals that seek to further the statewide DMC efforts through developing DMC Pilot Project(s) focusing on reduction in the targeted counties.

West Virginia has identified five (5) targeted counties for DMC reduction activities. New goals have been identified to assist in starting local DMC committees in Berkeley, Kanawha, Raleigh, Cabell and Monongalia counties. The DMC workgroup of the Juvenile Justice Subcommittee fully supports the development of these local committees to involve the community and local stakeholders and increase public awareness of DMC. The selected DMC Pilot Projects work closely with the WV Juvenile Justice Subcommittee and are required to report on a quarterly basis. The goal of this initiative is to implement the DMC Reduction Cycle, which is designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate numbers of juvenile members of minority groups who come in contact with the juvenile justice system throughout the state. The objectives are as follows:

- Identify where minority overrepresentation exists within the eight (8) points of contact in juvenile justice system as indicated by relative rate indexes (RRI's).
 1. **Arrest and Referral**
 2. **Diversion**
 3. **Detention**
 4. **Petition/Charges filed**
 5. **Delinquency findings**
 6. **Probation Placement**
 7. **Secure Confinement**

8. Transfer to Adult Court

- Examine the statewide assessment identifying the mechanisms that contribute to minority overrepresentation and carry out recommendations.
- Develop and implement intervention strategies for reducing minority overrepresentation in the juvenile justice system based on the identification of mechanisms contributing to DMC.
- Increase public awareness of DMC through trainings, presentations, and other resources to encourage community participation and greater understanding of DMC issues.
- Evaluate the effectiveness of the various interventions.
- Establish community commitment with court partners, social services, mental health, police, DHHR, community and faith-based organization, parents, etc.

This initiative is anticipated to be an ongoing effort but is contingent on the annual receipt of federal Juvenile Justice and Delinquency Prevention Title II grant funds. The “one size fits all” approach is not effective in West Virginia due to the rural nature and demographics of the state. The Juvenile Justice Subcommittee, WVDJCS, and the DMC workgroup will continue to work diligently to find ways to ensure equal and fair treatment for every youth (regardless of membership in a minority or majority population group) involved in the juvenile justice system.

2019 Accomplishments

During 2019, the Juvenile Justice Subcommittee:

1. The Juvenile Justice Specialist and the Compliance Monitor attended the Office of Juvenile Justice and Delinquency Prevention Core Requirements Training for States in September 2019. The training focused exclusively on promoting collaboration, problem-solving, and outcome-driven action in administration of the Title II Formula Grants Program to serve youth involved in juvenile justice services. The conference highlights were as follows:
 - Juvenile Justice Reform Act Updates
 - Title II funding and resources to improve juvenile services through presentations from the Department of Health and Human Services and the Department of Education.
 - Knowledge of priorities and special projects from the Federal Advisory Committee on Juvenile Justice (FACJJ)
2. The Prevention Resource Officer (PRO) program in the State of West Virginia continues to grow from year to year. During state fiscal year 2109, JCS trained and certified 101 officers who served in 35 counties. The 21st Annual PRO conference was held July 22 – 26, 2019 at the Highlands Event Center in Triadelphia, WV. This conference brought together certified law enforcement officers from around the state to receive quality training and networking opportunities. All officers who attended the conference received their required annual law enforcement in-service training hours.
3. During 2019, WV was deemed ineligible to receive the Juvenile Justice and Delinquency Prevention (OJJDP), Formula Grant allocation for FY18 and FY19. After careful consideration by U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), West Virginia was awarded their FY18 State Advisory Group (SAG) \$20,000 allocation. Additionally, JCS appealed the eligibility determination and requested a waiver for the FY19

Allocation. The state was granted the waiver and is currently eligible to receive the full federal award.

Title II – Juvenile Justice and Delinquency Prevention Grant Program

The Juvenile Justice Subcommittee chose the following Juvenile Justice and Delinquency Prevention funding categories to implement in West Virginia:

Delinquency Prevention for At-Risk Children and Youth

Grant resources provide community-based programs whose goals are to promote non-delinquent behavior and increase self-esteem, enhance interagency coordination and collaboration to meet the needs of the targeted at-risk youth population. Various projects throughout West Virginia include activities that reduce peer pressure, school safety programs, direct services to victims of child sexual and physical abuse and projects that encourage parent involvement.

School Safety

The Prevention Resource Officer (PRO) Program is a cooperative effort between schools and law enforcement to improve student's attitudes and knowledge of criminal justice and law enforcement; prevent kids from committing crimes; mentor youth utilizing law enforcement officers; provide a safer school environment; and to combine safety and child advocacy assuring a better school experience for all West Virginia youth.

The PRO Program has three main components, prevention, mentoring, and safety.

- Prevention - officers facilitate classes on non-traditional educational topics.
- Mentoring - officers are trained on how to be a positive mentor to students they interact with daily.
- Safety - officers are trained to recognize potential danger, prevent violence, and to respond to dangerous school situations.

Gender Specific Services

Title II grants provide funds to programs designed to address needs unique to the gender of the individual to whom such services are provided. Projects that were funded included programs that are structured to recognize gender-specific differences during

developmental stages and the need for appropriate interventions which address these differences.

Disproportionate Minority Contact

Title II grants provide funds to programs, research or other initiatives primarily to address the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system, pursuant to Section 223(a)(22) of the JJDP Act. Projects that were funded included programs that address juvenile delinquency prevention efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate numbers of juvenile of minority groups, who come in contact with the juvenile justice system.

Mental Health

Title II grants provide funds to programs that provide mental health services for youth in custody in need of such services including, but are not limited to assessment, development of individualized treatment plans, and discharge plans.

Substance and Alcohol Abuse

Title II grants provide funds to programs, research, or other initiatives to address the use and abuse of illegal and other prescription and nonprescription drugs and the use and abuse of alcohol. Programs include control, prevention, and treatment.

Mentoring, Counseling and Training

Title II grants provide funds to programs to develop and sustain a one-to-one supportive relationship between a responsible adult age 18 or older and an at-risk youth, youth who have offended, or youth with a parent or legal guardian who is or was incarcerated that takes place on a regular basis. These programs may support academic tutoring, vocational and technical training, and drug and violence prevention counseling.

Protecting Juvenile Rights

Title II grants provide funds to projects to develop and implement activities focused on improving services for and protecting the rights of youth affected by the juvenile justice system, including hiring court-appointed defenders, providing training, coordination, and innovative strategies for indigent defense services.

Diversion

Title II grants provide funds to programs to divert youth from entering the juvenile justice system including restorative justice programs such as youth or teen courts, victim-offender mediation and restorative circles.