



**U.S. Department of Justice**

Office of Justice Programs

*Bureau of Justice Assistance*

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Office of the Director

*Washington, D.C. 20531*

The Honorable Marty Jackley  
South Dakota Office of the Attorney General  
George S. Mickelson Criminal Justice  
1302 East Highway 14, Suite 5  
Pierre, SD 57501-8501

Dear Attorney General Jackley:

On April 13, 2015 and April 29, 2016, the Bureau of Justice Assistance (BJA) received your application for the John R. Justice (JRJ) Grant Program. As attachments to both applications, you included waiver requests regarding the JRJ Equal Allocation Requirement. Copies have been attached for reference. In these requests, you assert that: 1) You've encouraged both eligible Prosecutors and Public Defenders to apply for the program; 2) There are consistently more eligible Prosecutor applicants in South Dakota than Public Defender applicants resulting in significantly disproportionate award amounts between eligible Prosecutors and eligible Public Defenders; 3) You intend to divide the available award(s) equally between all applicants to mitigate disparity.

The JRJ solicitation, in accordance with the JRJ Act, states that in order to demonstrate "good cause" a waiver request must, at a minimum, include documentation of the state agency's efforts to comply with the equal distribution requirement and state its reasons for its inability to comply. In the event that a waiver is granted, the equal allocation requirement shall be suspended and a state agency shall be permitted to make a disproportionate funding distribution to prosecutors and public defenders.

Based on the documentation included in both waiver requests, and in accordance with the JRJ solicitation, I find that you have satisfied the "good cause" threshold and have demonstrated an inability to comply with the equal allocation requirement. This means that you are not held to the Equal Allocation Requirement. This waiver pertains to Fiscal Year 2015 and 2016 funding only and shall not be construed as a waiver of any other requirement of the JRJ Program.

I encourage you to access the John R. Justice web page on the BJA web site to keep apprised of program updates and developments. On this page, we will continue to include a section entitled, "Equal Allocation Requirement Waivers." We intend to list South Dakota as a state that has requested and been granted a waiver. We also plan to post a copy of your waiver request on this page for purposes of informing the field and transparency.

If you have any questions, please do not hesitate to contact Antonio Tovar at (202) 598-7424 or by e-mail at [Antonio.Tovar@usdoj.gov](mailto:Antonio.Tovar@usdoj.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Denise O'Donnell". The signature is fluid and cursive, with the first name "Denise" being more prominent and the last name "O'Donnell" following in a similar style.

Denise O'Donnell  
Director

Cc: Wanda Fergen

**South Dakota**  
**2015 John R Justice Student Loan Repayment Grant Application**

**WAIVER REQUEST**

Awards will be fairly distributed. South Dakota is a rural state and does not have any metropolitan areas. Applicants are encouraged to apply from each county. This is a request for waiver consideration for the State of South Dakota Office of Attorney General, as the JRJ administrating agency, to more equitably distribute the FY2015 JRJ funds awarded to our state. There are more full-time prosecutors than full-time public defenders in the state which leads to more applications from prosecutors. In 2011, there were 48 requests for funds (29 prosecutors and 19 defenders); in 2012, there were 43 applications (33 prosecutors and 10 defenders); and in 2013, there were 51 applications (36 prosecutors and 15 defenders). The 2014 awards have not yet been determined because at the time of this application, we have not yet heard whether our waiver request has been approved or disapproved. There are only two target groups of eligible beneficiaries among public defenders: 1) full-time public defenders from three counties and 2) assistant federal public defenders. If this waiver is granted, the intent would be to divide the award equally between all applicants rather than the two groups (prosecutors and defenders).

**South Dakota**  
**2016 John R Justice Student Loan Repayment Grant Application**

**WAIVER REQUEST**

Awards will be fairly distributed. South Dakota is a rural state and does not have any metropolitan areas. Applicants are encouraged to apply from each county. This is a request for waiver consideration for the State of South Dakota Office of Attorney General, as the JRJ administrating agency, to more equitably distribute the FY2016 JRJ funds awarded to our state. There are more full-time prosecutors than full-time public defenders in the state which leads to more applications from prosecutors. In 2011, there were 48 requests for funds (29 prosecutors and 19 defenders); in 2012, there were 43 applications (33 prosecutors and 10 defenders); in 2013, there were 51 applications (36 prosecutors and 15 defenders); and in 2014, there were 44 applicants (34 prosecutors, 9 public defenders, and 1 federal public defender). The 2015 awards have not yet been determined because at the time of this application, we have not yet heard whether our waiver request has been approved or disapproved. There are only two target groups of eligible beneficiaries among public defenders: 1) full-time public defenders from three counties and 2) assistant federal public defenders. If this waiver is granted, the intent would be to divide the award equally between all applicants rather than the two groups (prosecutors and defenders).