



Federal Advisory Committee on Juvenile Justice

ANNUAL REPORT 2009



This report was written by the Federal Advisory Committee on Juvenile Justice (FACJJ). The opinions expressed in this publication are those of the FACJJ membership and do not necessarily reflect the official position or policies of the Office of Juvenile Justice and Delinquency Prevention and/or the U.S. Department of Justice.

The background of the cover features a perspective view of several classical columns, likely from a government building, receding into the distance. Overlaid on this image are several geometric shapes: a dark blue triangle in the top left corner, a dark red horizontal band across the middle, and a large, semi-transparent red triangle pointing upwards from the bottom left towards the center. The text is placed within these colored areas.

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ANNUAL REPORT 2009

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Foreword

The Federal Advisory Committee on Juvenile Justice (FACJJ) presents its 2009 Annual Report to our Nation's leaders with our hope that it promotes thoughtful and effective leadership regarding juvenile justice. This Annual Report provides a snapshot of critical issues facing juvenile justice and proposes specific steps to address these issues.

The juvenile justice experts and career professionals who constitute FACJJ represent each State and territory and possess a wealth of experience and knowledge. The recommendations in this *Annual Report* are the product of their collective wisdom. On behalf of FACJJ, I am excited to present the new administration with our vision of change for a renewed national commitment of leadership for juvenile justice.

With strong Federal support and responsible guidance, our States and territories can make smarter, more cost-effective decisions that will reduce juvenile delinquency, intervene to protect the public, and provide misguided and neglected youth with the life skills they need to grow into productive, law-abiding adults.

It is imperative that juvenile justice make sense. Certainly, dangerous juvenile offenders need to be identified and incarcerated or intensely supervised. Incredibly, however, we have overpopulated our high-cost juvenile correctional institutions and jails with youth who have committed relatively minor or status offenses and whose driving issues are mental health conditions, learning disabilities, and social and family problems. To simply prosecute these youth as criminals exacerbates their problems, exposes them to higher risk juveniles, and perpetuates cycles of crime. Further, the disproportionate number of minority and impoverished youth in the juvenile justice system is alarming.

We need leadership to encourage smarter choices that “sort, then serve” these youth based on risk and need. We need to control the juveniles who are dangerous, and we need to provide youth with life skills to cope with their disabilities and dysfunctional communities and families.

Smarter choices in the processing of juvenile cases will lower crime rates, cost fewer tax dollars, produce better adjusted young citizens, and result in fewer victims. This is an investment in a research-supported, cost-effective strategy for public safety.

The *2009 Annual Report* describes a vision of leadership for action and seeks the committed leadership of the President, members of Congress, U.S. Attorney General, and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

In recent years, a combination of a lack of directed leadership, profound funding cuts, and an emphasis on punitive measures have resulted in juvenile justice slipping off the radar screen of national policy and the adoption of new Federal laws that have had unintended negative consequences for public safety and our Nation's youth. Congress acted boldly in 1974 to reform juvenile justice when it passed the Juvenile Justice and Delinquency Prevention Act. The President and Congress can now reauthorize this Act, appropriate effective funds, and once again lead the way to restore leadership and logic and to promote successful juvenile justice.

FACJJ urges our Nation's leaders to focus on juvenile justice and to adopt smart and workable solutions. Thank you for this opportunity to report directly to you regarding this matter of national urgency.

Harry W. Davis, Jr.
2009 FACJJ Chair



Dedication

One measure of a person's contributions to his or her world is the impact that others feel at the time of their passing—an impact that echoes along the pathways of their lives and circles of travel. When Robert E. Shepherd, Jr. (Bob) left us on December 11, 2008, after a brief but devastating illness, the world of juvenile justice reverberated in ways that will be felt for many years to come. Bob contributed to children, youth, families, communities, his family, and his beloved Commonwealth of Virginia—indeed this entire Nation—in voluminous yet practical ways.

His resume would read like a “Who’s Who” in the juvenile justice Hall of Fame, if such an entity existed. Recognized by the American Bar Association and many other organizations for his devotion and contributions to the field, Bob generated more than 40 years of significant productivity. Upon his death, the Virginia State Board of Juvenile Justice passed a unanimous resolution honoring Bob. The resolution noted several distinguished national and State awards and honors bestowed on Bob during his lifetime, including the American Bar Association’s Livingston Hall Juvenile Justice Award, the National Association of Counsel for Children’s Child Advocacy Award, and the creation of the Robert Shepherd Scholarship by the National Center for Family Law. In 2004, Bob received the Coalition for Juvenile Justice’s (CJJ’s) prestigious A.L. Carlisle Child Advocacy Award in recognition of his longstanding and invaluable contributions to CJJ through his report writing and other advocacy activities, which encompassed more than 15 years.



The Federal Advisory Committee on Juvenile Justice (FACJJ) owes a huge debt of gratitude to Bob for his leadership and perspectives throughout his tenure as the first chair of FACJJ’s Annual Report subcommittee from 2004 to 2008. His work ethic, scope, and breadth of experiences set very high standards for delivering the best Annual Reports and recommendations possible to the

appropriate audiences, and he made himself readily available to compose, rethink, edit, and improve our Annual Reports. He brought amazing expertise to the task of taking the Nation's pulse in matters pertaining to juvenile justice, wrestling with how to reduce opinions and facts from FACJJ members from 56 States and territories into a workable document, and then translating that information into policy, program, funding, and collaboration recommendations.

Bob was a big thinker, yet he was a man who felt as comfortable talking to Presidents, members of Congress, and his own Commonwealth assemblymen as he was to listening to young people incarcerated in Virginia's youth institutions. He was a master of the direct point and listened intently to every discussion. He studied issues in both depth and intensity, never wanting to advise any process or body without the fullest scope of study—from both academic and practice perspectives. Scrupulous in his collection of thoughts and research, Bob was always on the cusp of advanced ideas and principles as to how juvenile justice equity and socially responsible policy should be administered. He hated judicial inequity and despised social policy that seemed arbitrary or based on illogical assumptions.

Bob Shepherd was a warm, caring, and deeply compassionate soul. He wanted so much for children and youth to have every chance to learn new ways of expressing themselves so that the mistakes of immaturity would not impair their future opportunities. To sum it up, Bob wanted our work to matter. He believed in action and led the charge. FACJJ will miss him in extraordinary measure. On behalf of every former and current FACJJ member and alternate member and our support staff, FACJJ hereby dedicates the *2009 Annual Report* in honor of Robert E. Shepherd, Jr. It is our small recognition of a very big man.

Thank you, Bob.



Acknowledgments

This Report would not have been possible without the help of many individuals who contributed both considerable time and valuable ideas to its preparation.

Annual Report Subcommittee (ARS) cochairs Cecely Reardon and David Brown guided the Report through its many editing stages. Federal Advisory Committee on Juvenile Justice (FACJJ) Chair Harry Davis also provided substantial input. Dick Gardell, Pam Kennedy, Deirdre Garton, and Robin Jenkins facilitated work group discussions at the FACJJ spring meeting and helped incorporate FACJJ members' comments into the report. ARS cochairs also thank all the members of the subcommittee for taking the time to participate in the subcommittee's many conference calls.

Special thanks also go to all the State Advisory Groups and their juvenile justice specialists whose responses to the annual FACJJ questionnaire helped inform the content of this Report. ARS also thanks all the members of FACJJ for their constructive comments and suggestions for improving the Report.

The subcommittee also acknowledges Robin Delany-Shabazz, Designated Federal Official of the Office of Juvenile Justice and Delinquency Prevention for her help and support and Joyce Mosso, Zachary Miller, and Daryel Dunston of EDJ Associates, Inc., for their help in handling the logistics and other details associated with arranging ARS and FACJJ meetings.

Finally, FACJJ wishes to thank Kay McKinney for her tireless dedication, patience, and support during the drafting and editing of this Report. Kay's commitment and contributions to juvenile justice as embodied in her work on this and past reports is unparalleled, and FACJJ is immensely grateful for her service.



Core Values of the Federal Advisory Committee on Juvenile Justice

The discussion of issues, goals, and recommendations in this Annual Report are all predicated on the following Core Values, which the Federal Advisory Committee on Juvenile Justice (FACJJ) has adopted as guiding principles:¹

1. Every community and each youth in the juvenile justice system is entitled to a juvenile justice system that provides public safety, accountability, and rehabilitation in a balanced and restorative manner.
2. Each youth in the juvenile justice system is entitled to services provided by culturally competent, appropriately trained professionals who are committed to the treatment and rehabilitation of youth and competitively compensated for the services they provide.
3. Each youth in the juvenile justice system is entitled to a full continuum of culturally appropriate, integrated services, which includes prevention, community alternatives, secure confinement provided in the least necessary restrictive environment, reentry, and aftercare.
4. Each youth in the juvenile justice system is entitled to services based on an objective assessment of risk and protective factors, equally accessible across all classes, cultures, jurisdictions, and linguistic and ethnic groups, which are individualized, gender specific, and developmentally appropriate.
5. Each youth in the juvenile justice system is entitled to a safe place to live, sustained subsistence, emotional and spiritual nurturing, relevant and appropriate educational opportunities, and adequate health care including the assessment and treatment of substance abuse and mental health and co-occurring disorders.
6. Each youth in the juvenile justice system is entitled to timely, zealous, and effective legal representation and a fair and just legal process.
7. Communities and youth in the juvenile justice system are entitled to a system in which individuals and entities work in a collaborative manner.
8. No youth in the juvenile justice system shall be subject to involvement or outcome based on race, class, disability, culture, ethnicity, religion or spiritual practice, gender, or sexual orientation.
9. Each youth in the juvenile justice system is entitled to the support of a functional family and services provided with collaborative involvement of the youth's biological and extended family.

¹FACJJ adopted the original core values in 2006 and amended them in 2009.

10. Each youth in the juvenile justice system must be separated from adult offenders in institutional settings.
11. No youth who is a status offender shall be held, except as provided by statute, in secure juvenile detention or correctional facilities nor shall they be placed or held in adult jails for any length of time.
12. No youth in the juvenile justice system should be placed in secure pretrial detention unless it is determined that the youth poses a risk to public safety or is unlikely to appear in court.



Executive Summary

The Nation's States and territories face many critical juvenile justice challenges that demand renewed national leadership and action. Over the past several years, juvenile justice has been lost in the shuffle of competing national priorities. This, combined with inconsistent advocacy for juvenile justice by the Nation's leaders and drastic cuts to juvenile justice Federal funding, has been costly. This situation is threatening to undo many of the reforms that have been enacted since the Juvenile Justice and Delinquency Prevention (JJDP) Act was first enacted in 1974.

Juvenile justice must once again become a national priority. The President and Congress can do this by quickly reauthorizing the JJDP Act and providing effective Federal funding for juvenile justice. The Federal Government must recognize that the majority of the work to reduce delinquency and improve juvenile justice is done at the State and local levels. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) must return to its leadership role and strengthen its relationship with the States and territories by working more closely in partnership with them.

Sound leadership and adequate funding are needed to help States and territories address the following challenges:

- ◆ The disproportionate number of minority youth who come into contact with the juvenile justice system.

- ◆ The number of youth in the juvenile justice system with mental health, substance abuse, and co-occurring disorders.
- ◆ The lack of support for delinquency prevention programs.
- ◆ The inappropriate use of secure pretrial detention for juvenile offenders.
- ◆ The consequences of waiver and transfer of juvenile cases to adult court.
- ◆ The lack of access to the effective assistance of counsel for youth in the juvenile justice system.

The Federal Advisory Committee on Juvenile Justice (FACJJ) has developed a vision of bold juvenile justice leadership with the ultimate goals of ensuring that juvenile justice policies promote public safety; prevent delinquency; rehabilitate delinquent youth; are cost-effective;

and are based on overall outcome, not on emotional reactions to an individual circumstance or case. FACJJ also proposes a vision of bold leadership for the President, Congress, Attorney General, and OJJDP Administrator. This vision will act as a roadmap to restoring juvenile justice to national prominence.

FACJJ makes the following recommendations to these leaders:

- ◆ Congress needs to act quickly to reauthorize the JJDP Act with the encouragement of the President to signal that juvenile justice is a priority in the new administration.
- ◆ The President, Congress, Attorney General, and OJJDP Administrator should use OJJDP to return our Nation and OJJDP to the core principles that have successfully guided juvenile justice to greater levels of community involvement and lower levels of juvenile crime.
- ◆ Congress and the U.S. Department of Justice (DOJ) should ensure that new laws and policies related to juveniles are grounded in solid research and evaluation and commit to following up on the long-term results and consequences of any new acts. Legislation and DOJ and OJJDP policy interpretations that impact juvenile justice should reflect reason and logic, even in the face of public pressure to respond to an individual tragedy.
- ◆ DOJ and Congress should re-examine the Adam Walsh Act and limit its juvenile registration requirements to those juvenile sex offenders who a court determines represent a continuing danger to the public.
- ◆ OJJDP should reinforce and expand its training and technical assistance programs to help States and territories strengthen the infrastructure of their juvenile justice systems.
- ◆ OJJDP must adopt a fair and open process by which it engages the States and territories in a timely manner regarding its enforcement or revision of JJDP Act compliance criteria, DOJ and OJJDP regulations, and the dissemination of official information.
- ◆ OJJDP should establish a process for regular, periodic discussions of juvenile justice between OJJDP leadership and State and territory juvenile justice practitioners, researchers, policymakers, and leaders.
- ◆ OJJDP must perform its policy and grant-awarding functions openly and with integrity.
- ◆ The new OJJDP Administrator must take bold and affirmative steps to restore OJJDP to a respected juvenile justice leadership role.

A photograph of four teenagers, two boys and two girls, smiling and posing together. They are wearing casual t-shirts. The image is partially obscured by a dark blue banner at the top left and a red banner below it.

CHAPTER 1

A Call for Juvenile Justice Leadership in a Time of Change

Congress enacted the Juvenile Justice and Delinquency Prevention (JJDP) Act in 1974 to assist States, territories, the District of Columbia, and local communities in reforming the juvenile justice system and effectively reducing juvenile delinquency and violent crime. (The territories encompass the Commonwealths of Puerto Rico and the Northern Mariana Islands and the unincorporated territories of the U.S. Virgin Islands, Guam, and American Samoa.) Although much has been accomplished since 1974, a constantly changing juvenile justice landscape continues to produce numerous challenges.

The Federal Advisory Committee on Juvenile Justice (FACJJ) is tasked with making annual recommendations regarding juvenile justice and delinquency prevention to the President, Congress, and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the U.S. Department of Justice (DOJ). In previous Annual Reports, FACJJ has called attention to a number of significant challenges, including the disproportionate number of minority youth who come into contact with the juvenile justice system; the alarming increase in the number of youth in the juvenile justice system who have mental health disorders; the lack of funding for juvenile justice programs, especially those focusing on prevention; the inappropriate use of secure detention for nonviolent juvenile offenders; the number of juvenile offenders transferred to the adult criminal justice system; and juveniles' lack of access to the effective assistance of legal counsel.

The many critical challenges facing juvenile justice policymakers demand action. During this time of political change, it is critical for the President, Congress, and DOJ to understand these issues and exert leadership.

FACJJ has good reason to call for renewed leadership in the juvenile justice arena. Over the past several years, juvenile justice has been lost in the shuffle of competing national priorities. This, combined with inconsistent advocacy for juvenile justice by the Nation's leaders, has been costly. Federal funding to help States and territories respond to juvenile delinquency and crime has been drastically cut. Funds appropriated to OJJDP have been slashed, and the agency's leadership role has been compromised.

This deficit of leadership is threatening to undo many of the reforms that have been made since the JJDP Act was first enacted in 1974. Without bold leadership,

some of the critical challenges noted above risk becoming entrenched in the juvenile justice system. Juvenile justice policies have shifted from offering rehabilitation to mandating punitive consequences, despite research that shows that punishment does not reduce delinquency; to the contrary, in many cases this shift may increase delinquent behavior and jeopardize public safety. Lack of leadership has caused policymakers to lose sight of the importance and cost-effectiveness of

prevention and smart intervention efforts that create safe communities.

FACJJ makes the case in its *2009 Annual Report* that juvenile justice must once again become a national priority and offers a road map for the President, Congress, and DOJ to return juvenile justice to a place of prominent concern, guided by smart and thoughtful leadership.



CHAPTER 2

Make Juvenile Justice a Priority

- ◆ *Reauthorize the Juvenile Justice and Delinquency Prevention (JJDP) Act.*
- ◆ *Provide effective Federal funding for juvenile justice.*
- ◆ *Strengthen the relationship between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the States and territories and foster meaningful communication at all levels of government regarding juvenile justice issues.*

Juvenile justice must be a national priority. How our Nation treats its youth is an important measure of the quality and priorities of our society. Making juvenile justice a priority will better protect public safety and the rights of victims, and it will ensure that delinquent juveniles learn accountability and are provided a meaningful opportunity to become law-abiding, productive citizens.

Juvenile justice issues were not the focus of any 2008 presidential debates, highlighted on the campaign trail, or notably referenced in subsequent policy speeches. This is troubling because the Nation must keep working to prevent delinquency and reduce recidivism to ensure that the juvenile crime rate does not begin to increase. Although the number of juveniles arrested in 2005 and 2006 increased slightly, juvenile arrest data from 2007 (the most current data available) show there were 2-percent fewer juvenile arrests than in 2006, and juvenile arrests for violent crimes decreased by 3 percent. These

data are encouraging but should not lead to complacency about efforts to prevent juvenile delinquency and crime. The Federal Advisory Committee of Juvenile Justice (FACJJ) respectfully urges our President, Congress, Attorney General, and OJJDP Administrator to exert bold leadership that values and supports delinquency prevention and programs that are proven to intervene effectively with juvenile delinquents. The long-term consequences of inaction will be costly in both fiscal and human terms.

Although FACJJ acknowledges the Nation's financial crisis, our policymakers must put juvenile justice issues on the front burner. The costs associated with the immediate action needed to address juvenile justice issues are minimal when compared to the peril to our Nation's future. Taxpayers are also worried about the economy and their quality of life. Money spent on delinquency prevention and intervention programs will make our neighborhoods safer and save taxpayer dollars in the long run.

Congress needs to act quickly to reauthorize the JJDP Act, which was due to be reauthorized in 2007. We ask the President to encourage prompt congressional action for the reauthorization of the Act and to raise significant public awareness at the time he signs this important Act. Doing so will signal that juvenile justice is a priority in the new administration.

The President, Attorney General, and OJJDP Administrator should advocate for effective Federal funding, and Congress should appropriate effective juvenile justice funds to the States and territories and OJJDP. During recent years, juvenile justice challenges have grown while Federal funding for juvenile justice has been significantly reduced.

The Federal Government must recognize that the majority of the work to reduce delinquency and improve juvenile justice is done at the State and local levels. States and territories have seen a significant reduction in the allocation of Federal dollars, especially formula grant funds, which help them implement best practices, provide prevention and intervention programs, and comply with the four core requirements of the JJDP Act.² Between 2001 and 2008, funding for the OJJDP Formula Grants Program was cut by more than 20 percent—from \$87 million to \$68 million. Refer to Exhibits 1–3 on page five.

As urged by the President and many congressional leaders, Congress must provide bold leadership and stop earmarking away OJJDP's budget.

OJJDP should allocate a significant portion of its discretionary resources to help States and territories remain in compliance with the JJDP Act. OJJDP also must be a partner with the States and territories to support programs that help them remain in compliance.

OJJDP must seek regular input from States and territories to ensure that it supports activities that address locally identified critical needs. Congress and OJJDP should openly signal that supporting States and territories in implementing the provisions of the JJDP Act is a priority.

OJJDP must return to its leadership role as the primary Federal agency that addresses issues related to juvenile justice and delinquency, and Congress should appropriate effective funding so OJJDP can fulfill its mandated responsibilities of conducting research and gathering data, supporting demonstration programs, identifying best practices, providing training and technical assistance, and disseminating information about these activities. An effectively funded OJJDP will be able to promote cost-effective, smart programs that have the greatest potential to reduce juvenile delinquency, promote public safety, and improve the juvenile justice system.

FACJJ urges the President to send a clear message that juvenile justice is an investment in the future and is therefore a priority for him. FACJJ requests that the President direct the Attorney General, the Assistant Attorney General of the Office of Justice Programs, which oversees OJJDP, and the OJJDP Administrator to carry out this mandate of making juvenile justice a national priority.

Bibliography

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² The JJDP Act requires States and territories that participate in the Formula Grants Program to deinstitutionalize status offenders, separate juveniles from adults in secure facilities, remove juveniles from adult jails and lockups, and reduce the disproportionate number of minority youth who come into contact with the juvenile justice system.

Exhibit 1: OJJDP Distribution of Title II, Block Grant, and Title V Funds

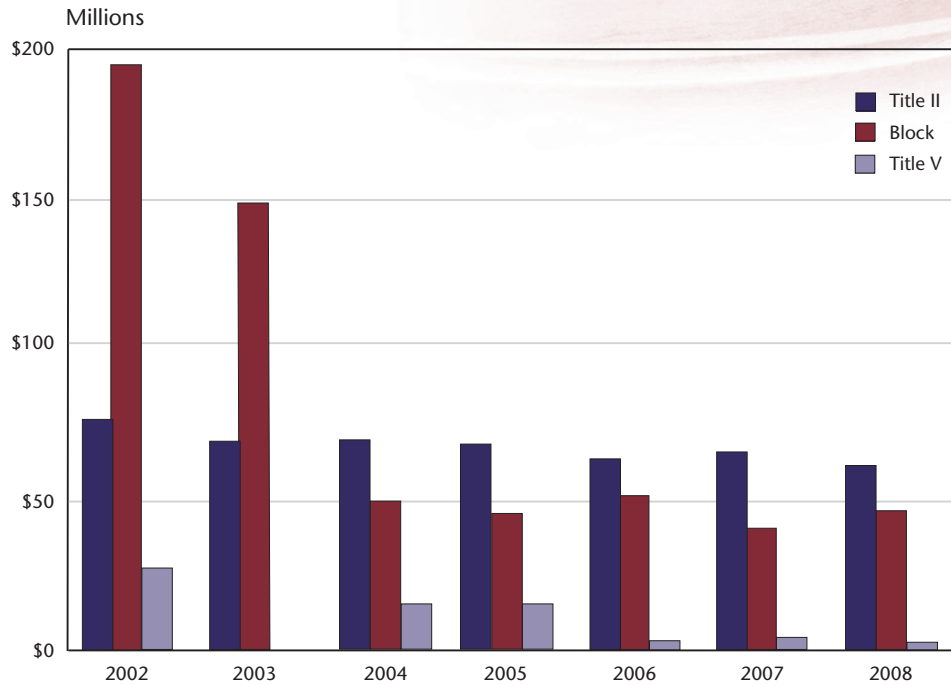


Exhibit 2: OJJDP Distribution of Title II Funds

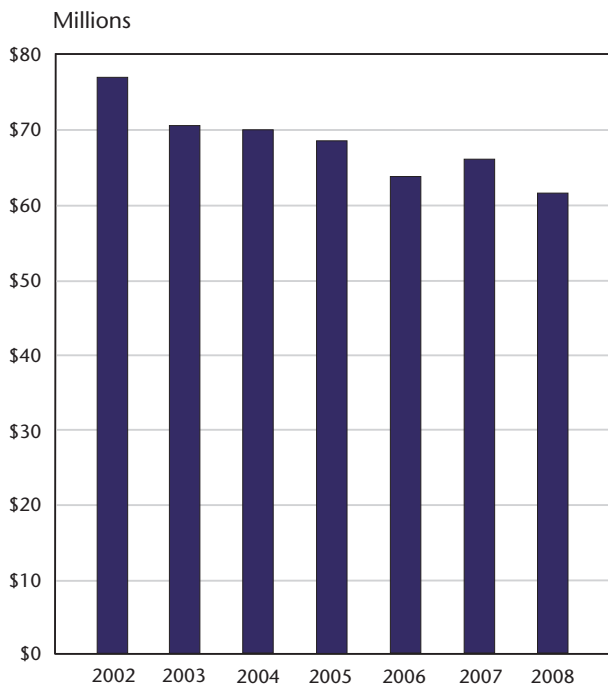
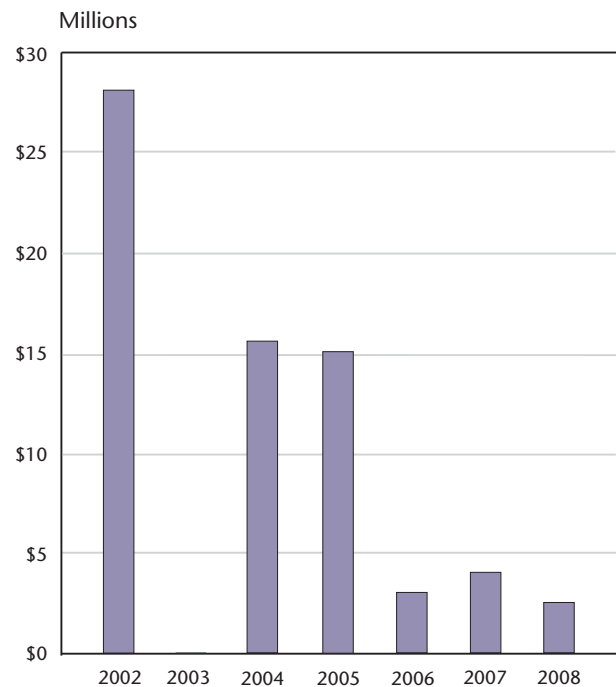


Exhibit 3: OJJDP Distribution of Title V Funds





CHAPTER 3

Juvenile Justice Challenges and Solutions

The following points illustrate the challenges that the juvenile justice system must face and the demand for solutions that require sound leadership and effective funding.

Challenge:

The Disproportionate Number of Minority Youth in Juvenile Justice

A disproportionately high number of youth from all minority populations are in the juvenile justice system. Efforts over the past 20 years have failed to remedy this situation, commonly referred to as “disproportionate minority contact” or DMC.

According to the most recent juvenile arrest data, the racial composition of the juvenile population in this country is 78 percent white, 17 percent black, 5 percent Asian/Pacific Islands, and 1 percent American Indian. (Most juveniles of Hispanic ethnicity are included in the white racial category.) As an example of DMC, the following statistics illustrate the disproportionate representation of minority youth at critical stages of the juvenile justice system:

- ◆ Of all juvenile arrests for violent crimes in 2007, 47 percent involved white youth, 51 percent involved black youth (who make up 17 percent of the juvenile population), 1 percent involved Asian youth, and 1 percent involved American Indian youth.

- ◆ The juvenile arrest rate for robbery among black juveniles was more than 10 times that for white youth in 2007.
- ◆ The juvenile arrest rate for violent crimes for black juveniles was about 5 times the rate for white juveniles and American Indian juveniles and 16 times the rate for Asian juveniles in 2007.
- ◆ Recent juvenile court statistics show that between 1985 and 2005 the number of delinquency cases involving detention increased 97 percent for black youth, 24 percent for white youth, and 13 percent for American Indian youth.
- ◆ Corrections data from 2006 confirm that in nearly all States a disproportionate number of minorities were in residential placement. Minority youth accounted for 39 percent of the U.S. juvenile population but 65 percent of the juveniles in custody in 2006.

Solutions:

- ◆ **National leaders must acknowledge that minority youth are disproportionately represented in the juvenile justice system and that this overrepresentation is unacceptable.**

- ◆ **Congress should appropriate funds for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct research to identify successful practices and programs that address DMC, to disseminate the findings, and to provide training and technical assistance to help States and territories implement these programs.**
- ◆ **Congress should direct relevant Federal agencies (e.g., the U.S. Departments of Justice, Education, Health and Human Services, Labor, and the National Institutes of Health) to develop and fund cross-agency collaboration to address DMC.**
- ◆ **Congress should provide incentives for States and communities to assess why DMC exists in particular communities and to implement meaningful programs that proactively reduce DMC.**

For the past 5 years, a majority of the States and territories responding to an informal FACJJ questionnaire about the juvenile justice issues affecting their jurisdictions have reported DMC to be the most critical issue. Of the 47 States and territories that participated in the 2008 questionnaire, 40 rated DMC as their top issue. The States and territories identify many barriers to progress, including difficulty in collecting uniform and reliable data; community leaders' lack of awareness and understanding of DMC; a scarcity of information about what works to reduce DMC; and little funding to support the development, implementation, and evaluation of promising programs.

Many factors contribute to our Nation's failure to successfully reduce racial disparity in the juvenile justice system. The Juvenile Justice and Delinquency Prevention (JJDP) Act does not require measurable progress to address DMC, nor has Congress appropriated funds to create State incentives to effectively address this endemic and pervasive problem. OJJDP has not focused its discretionary grants to pilot promising programs or needed research regarding DMC. States and communities have not engaged in critical self-examination

to identify and understand the disparities that exist in their own communities. Few communities have moved beyond discussion of the DMC issue to action to reduce DMC.

In contrast to the action steps that the other core protections mandate, the JJDP Act requires only that States and territories address DMC by collecting data regarding the number of minority youth who come into contact with the juvenile justice system. Thus, little effort has been made to reduce the number of these youth in the system.

DMC is a complex issue affected by many individual, family, socioeconomic, and community factors. Many minority youth face circumstances that make it a struggle simply to avoid the juvenile justice system. Other issues, such as the availability of mental health and substance abuse treatment, access to effective legal counsel, the unnecessary use of pretrial detention, and the transfer of juvenile cases to adult court can increase DMC.

FACJJ calls on our national leaders to step up with a bold acknowledgment and clear investment to respond to our crisis of DMC.

Challenge:

Youth in the Juvenile Justice System With Mental Health, Substance Abuse, and Co-occurring Disorders

Historically, the juvenile justice system functioned as youth service agencies whose mission was largely to accept children (orphaned, abandoned, misfits, and misbehavers) for whom no other individual or agency would take responsibility. In more recent years as juvenile offending has become a more focused issue, these State youth service agencies have become labeled as "juvenile justice departments"; however, they remain the receiving agencies for thousands of youth whose

driving issues are mental health, substance abuse, co-occurring disorders, and learning disabilities and who suffer abuse or neglect. As a result, youth with these underlying issues are indiscriminately mixed in with more serious offenders.

Solutions:

- ◆ **The President and Congress should mandate Federal research agencies (e.g., the National Science Foundation and the National Institutes of Health) to pool their funds and expertise to help OJJDP develop and evaluate programs and to disseminate information about effective, evidence-based mental health and substance abuse interventions for children and their families.**
- ◆ **The President and Congress should make as a policy and priority the ability for Federal agencies to combine their funding streams and allow for the interagency delivery of services and programs.**
- ◆ **The President and Congress should amend the JJDP Act to require each State Advisory Group to include at least one health or mental health and/or substance abuse treatment professional.**

Research studies have shown that as many as 70 percent of youth institutionalized within the juvenile justice system may exhibit a diagnosable mental health, substance abuse, and/or developmental disability condition. At various decision points in the system (from arrest and petition through actual incarceration), the proportion of youth who demonstrate mental health/substance abuse/developmental disability conditions may range from 28 to 70 percent. Compared to the prevalence of mental health issues in the general

population (11 to 19 percent), these problems are substantial.

A congressional report released in 2004 found that two-thirds of juvenile detention facilities hold youth who are waiting for community mental health treatment. Many facilities reported that youth with mental illness are held in detention centers without any charges against them.

States and territories responding to the FACJJ questionnaire mentioned that youth with mental health and substance abuse assessment and treatment needs are top concerns in their juvenile courts. The increasing number of referrals of such youth is compounded by the lack of adequate community-based mental health and substance abuse services, as well as services for co-occurring disorders. Many States also report that this issue has a significant impact on DMC.

Caring for youth with mental health disorders within the juvenile justice system is challenging and demands data collection, research, and evaluation. Many of these youth should be served outside the juvenile justice system. For delinquent youth with mental illness, substance abuse issues, and co-occurring disorders, practitioners need quality screening and assessment tools and access to adequate programs to ensure appropriate treatment for individual youth.

It is unrealistic to expect the juvenile justice system alone to meet the needs of youth with mental illness, substance abuse issues, and developmental disabilities. Social services, mental health, education, and juvenile justice agencies must work together to develop evidence-based collaborative responses that accurately identify and effectively respond to a youth's primary problem, be that delinquency, substance abuse, or mental illness.³

³ The many issues surrounding youth in the juvenile justice system with mental health, substance abuse, and co-occurring disorders are discussed in greater detail in the *2008 FACJJ Annual Report*, which is available online at www.facjj.org/annualreports.html.

Challenge:**Lack of Support for Delinquency-Prevention Programs**

Our Nation's focus and funding for delinquency prevention programs declined over the past decade when juvenile crime rates were declining. Research shows that some reactionary "get tough" policies and legislation, such as waiving juveniles to adult court, adopted in the wake of sensational juvenile crimes, have resulted in the unintended consequence of increasing juvenile offending. Prevention and intervention programs have proven successful and less costly than more punitive approaches, but have been routinely underfunded.

Solutions:

- ◆ **The President, Congress, and OJJDP should acknowledge and advocate the long-term benefits of delinquency-prevention efforts. Programs that keep children in school and teach them life skills provide youth at risk of involvement with the juvenile justice system with the coping skills and motivation to succeed.**
- ◆ **Congress should adequately fund the Title V Community Prevention Grants Program (Title V) and must not dilute its impact by diverting funds through earmarks.**
- ◆ **The Attorney General and OJJDP should emphasize delinquency prevention and allocate discretionary funds for innovative, promising prevention programs.**
- ◆ **OJJDP should utilize the growing body of research regarding the adolescent brain to guide policy and program development.**

In sponsoring the JJDP Act in 1974, former Senator Birch Bayh (D) of Indiana expressed concern about youth having to commit crimes before they could get help. Consequently, he defined the Act with one word: "prevention." The President, Congress, Attorney General, and OJJDP Administrator should embrace Senator Bayh's emphasis on prevention.

The basic premises of the original JJDP Act remain valid today: Support State and local programs that prevent juvenile delinquent behavior, offer core protections to youth in the juvenile justice system, and support interventions that address risk to protect the safety of communities.

Prevention programs are especially needed to intervene with at-risk populations of youth. One such population is juveniles at risk of joining gangs. According to OJJDP's 2007 national youth gang survey, there has been a resurgence of youth gang problems in recent years. This resurgence has come after a marked decline in youth gang problems from the mid 1990s to the early 2000s. Prevention programs are also needed for children who suffer physical and sexual abuse and children who witness family violence. Research shows that these children are more likely to become involved in delinquent behaviors. Another at-risk population is female juveniles. Current arrest data reflect an increase in the number of girls arrested for all types of offenses. According to the Girls Study Group, an interdisciplinary group of scholars and practitioners convened by OJJDP, there are questions about whether this is an actual trend or a change in how society responds to girls' behavior. The study group cites a need for more information about, and more rigorous evaluations of, prevention and intervention programs for girls.

The mission of the juvenile justice system has become less focused as policymakers, practitioners, and the

public have debated whether the best way to reduce criminal behavior in youth is to focus on prevention and rehabilitation or to increase punishment.

Numerous studies demonstrate that evidence-based prevention and intervention programs can reduce delinquency and serious juvenile crime. Emerging research on the development of the adolescent brain is providing more reliable information about what works to help juveniles correct their behavior before it becomes more serious and violent.

Yet, Federal funding for prevention programs has decreased significantly over the past several years. One program especially hard hit by funding cuts is the Title V Community Prevention Grants Program, which was established in 1992 to encourage States and territories to develop prevention programs. Program grantees report that this initiative has had positive outcomes. According to the *Title V 2006–2007 Report to Congress*, youth participating in Title V-funded programs showed decreased antisocial behavior and improved family relationships, school attendance, and self-esteem—protective factors that help prevent delinquency. The previous administration reduced funding requests for Title V, and Congress earmarked away the funds that were appropriated. This approach has not been responsive to State and local needs and has hindered the efforts of many communities and States to support delinquency prevention efforts.

In the interest of public safety, it is beneficial to strike a proper balance between prevention and accountability. Prevention leads communities and practitioners to proactively seek solutions to local issues of delinquency.

Challenge:

Inappropriate Use of Secure Pretrial Detention

Every year, hundreds of thousands of juveniles are sent to secure detention centers. According to a report from the Annie E. Casey Foundation, about 70 percent of these youth are detained for nonviolent offenses. The report further goes on to say that placing nonviolent juveniles in secure detention facilities is emotionally harmful to these youth, often may increase the likelihood of future delinquent and criminal behavior, contributes to overcrowding of facilities that should be reserved for more serious offenders, and is costly for taxpayers.

Solution:

- ◆ **OJJDP should lead a reform of pretrial detention. The use of pretrial detention should be based on criteria that assess the need to protect the public safety and to ensure that juveniles appear at future court proceedings. Congress should effectively fund OJJDP to conduct research, disseminate information, promote public awareness, and offer technical assistance to promote development of detention criteria and alternatives to secure detention for juvenile offenders.**

Virtually every State and territory struggles with the issue of what to do with juveniles during the period from the moment of arrest to the completion of trial and adjudication by the court. Some youth are released under community supervision; others are securely detained pretrial. The majority of those held pretrial in secure detention are charged with minor offenses or status offenses; when finally adjudicated, the majority of these juveniles are not sentenced to correctional institutions. Thus, the initial decision to hold a juvenile in pretrial secure detention is often clearly driven by factors other than protecting the public from a dangerous youth or concern the youth will not show up for court. The decision to securely detain many of these youth while they await trial may be based on their parents' needs or the system's convenience, or may simply reflect a lack of alternatives to secure detention.

The use of pretrial detention unnecessarily removes hundreds of thousands of youth from their homes, schools, and community support systems; accelerates their movement deeper into the juvenile justice system; facilitates gang recruitment; increases the disproportionate number of minority youth in the juvenile justice system; and overlooks their emotional problems or at least delays their access to appropriate mental health services.

Clearly, dangerous youth should be securely detained while awaiting trial. But placing nonviolent youth in secure detention for the wrong reasons yields the wrong results. Securely detaining an unruly, offensive, emotionally disturbed, parentless, or hard-to-place youth may be convenient at the moment, but when done repeatedly nationwide, may lead to an increase in recidivism and an increase in crime. Many of these youth lack the life skills they need to cope with their personal problems, disabilities, and dysfunctional families. Rather than addressing these issues, secure detention only spirals them further downward. Secure detention should be used only when needed, and appropriate risk assessment instruments should be used to determine that need.

The excessive, unnecessary use of pretrial detention is one of the juvenile justice system's most significant problems and one of the easiest to fix. A community will experience reductions in juvenile crime and reduce its costs if it develops alternatives to expensive detention centers and decides, only after completing risk assessments, to securely detain only those juveniles who pose a danger to the community or are a risk of flight from the court.

Detention reform is achievable, but it requires leadership.

Challenge:

Waiver and Transfer of Juvenile Cases to Adult Court

Many States reacted to the rising juvenile crime rate in the 1990s by passing laws that allow the transfer of more juvenile offenders from the juvenile justice system to the adult criminal justice system. The number of delinquency cases judicially waived to criminal court grew substantially between 1985 and 1994, then declined between 1994 and 2001. However, recent juvenile court statistics indicate that the number of judicially waived delinquency cases increased 7 percent between 2001 and 2005. Such transfers are often due to laws enacted in response to a single high-profile case. Solid research and data are sorely needed to determine the consequences to communities and juveniles of this trend of transferring juvenile cases to adult courts.

Solutions:

- ◆ **OJJDP should fund independent data collection and research and publish the findings to encourage and empower States and territories to adopt sound, responsible public policy regarding the transfer of juvenile cases to adult court.**
- ◆ **OJJDP should fund more research to study the fiscal and social impacts of transferring juveniles to the adult correctional system and use the research findings to develop model programs, standards of care, and incentive funding for appropriate housing and treatment of juveniles in adult correctional institutions.**
- ◆ **In recent years, many States and territories have sought tougher punishment for juvenile offenders by enacting laws that facilitate the waiver or transfer of juvenile cases from the family courts to the adult courts. These laws are far reaching, but may have been adopted in response to a single case. Transfers may occur at the discretion of judges or prosecutors or may be required for certain offenses or ages.**

The compelling question is: Do such transfers serve the purpose of reducing crime and making communities

safer? Juveniles appearing in adult court are often reported to receive community-based adult probation; had their cases remained in juvenile court, they most likely would have been committed to a juvenile correctional institution. The OJJDP bulletin *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, which reviews research on the deterrent effects of transferring juveniles to adult courts, concluded that youth transferred to adult courts had significantly higher rates of recidivism and reoffended more quickly than juvenile offenders whose cases were retained in juvenile courts. But these findings also show that additional research is needed to examine the transfer issue more thoroughly. Case data must be collected to determine the number and results of transfers and to analyze the effect transfers have on recidivism, courts, correctional facilities, and communities. Other findings have also suggested that laws transferring cases to the adult court based solely on the offender's age and offense may actually increase the risk of reoffending.

Smart and responsible juvenile justice should offer meaningful services and deliver the most effective sanctions. Public safety is best served by imposing dispositions that reduce crime, hold juvenile offenders accountable, teach needed life skills, promote restitution and community service, and result in the juvenile being less likely to reoffend. The limited research raises questions about whether transfers and waivers of juveniles to the adult court system achieve these goals.

Challenge:

Lack of Access to the Effective Assistance of Counsel

Every youth who comes into contact with the juvenile justice system is entitled to timely, zealous, and effective legal representation by competent counsel. However, juveniles are routinely permitted, if not encouraged, to waive their right to counsel. Juvenile defenders

experience excessively high caseloads, which result in minimal client contact and limited preparation of cases. Further, juvenile defenders are given little or no training regarding the issues unique to juvenile representation. Effective representation may avoid the routine misuse of the juvenile justice system as the service system for mentally ill and neglected children.

Solutions:

- ◆ Congress should recognize that effective representation of juveniles in delinquency proceedings is a complex specialty of law and insert language into the JJDP Act that requires the timely provision of competent, effective, and zealous attorneys for both the juvenile and the State (i.e., prosecutors). These attorneys should receive specialized training in child and adolescent development and in juvenile law, and States and territories should adopt juvenile practice and caseload standards.
- ◆ OJJDP should conduct a formal assessment of juvenile court practices in States and territories to determine the extent to which juveniles are afforded the right to counsel. OJJDP should develop performance guidelines, standards of practice, and training curricula that ensure that States and territories provide timely and effective assistance of counsel to juveniles.
- ◆ OJJDP should conduct a formal assessment of the extent to which juveniles are waiving their right to counsel during the course of arrest and subsequent court proceedings. OJJDP should develop performance guidelines, standards of practice, and training curricula that ensure that juveniles are afforded due process rights.

More than 40 years after the Supreme Court ruled that juveniles are entitled to the assistance of counsel, many youth continue to appear in court without counsel. Findings from recent assessments regarding effective

assistance of counsel are consistently discouraging. Since juveniles are permitted, and indeed encouraged, in many States to waive their right to counsel, lawyers are appointed to represent indigent youth in a startlingly low percentage of cases in many of these jurisdictions. In other States, lawyers are not appointed early enough in the process to provide effective assistance (often not until after a pretrial detention hearing is held). Excessive caseloads also routinely prevent lawyers from meeting with their juvenile clients until the day of a hearing, which precludes adequate investigation and preparation of cases.

In addition to these systemic challenges, few jurisdictions recognize that effective representation of juveniles in delinquency proceedings is a complex specialty in the law that is different from, but perhaps more critical than, the legal representation of adults. Children and adolescents are at a crucial stage of development, and skilled juvenile defense advocacy can have a positive impact on the course of their lives. Effective legal representation protects public safety by helping ensure that a juvenile offender receives the treatment or services necessary to prevent further offending.

Additionally, juvenile justice legal practice should not be static; effective legal advocacy for juveniles requires ongoing training in those areas of the law that pertain specifically to youth as well as in the biological, social, and developmental challenges unique to juvenile offenders. In addition to remaining current regarding developments in the law and juvenile court process and systems, juvenile defense attorneys and prosecutors should be aware of emerging research about child and adolescent development, promising programs, and other dispositional resources. Juvenile defense attorneys also should have access to mental health evaluations and consultations and information about special education, treatment resources, and social services available for the juvenile and his or her family to aid their representation of youth and disposition of cases.

The involvement of focused, highly trained juvenile defense attorneys at every critical stage in the juvenile justice process has many beneficial consequences, including the avoidance of unnecessary pretrial detention and transfers to adult court. Effective assistance of counsel also results in dispositions appropriately tailored to juveniles' needs.

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CHAPTER 4

FACJJ's Vision of Bold Juvenile Justice Leadership

The Federal Advisory Committee on Justice Juvenile (FACJJ) calls on our Nation's leaders to embrace the guiding principles set forth in the Core Values presented earlier in this Annual Report. Leadership grounded in reality will demand research of issues, promote prevention of delinquent behavior, reduce victimization, improve our quality of life, and limit the wasteful financial and human costs incurred when a young person is prosecuted or incarcerated unnecessarily.

Our Nation needs bold leadership to establish an effective and successful juvenile justice system. National leaders must step up to promote public safety and policies and programs that prevent delinquency and optimize the rehabilitation of delinquent youth.

Juvenile justice must make sense. We must make smart choices based on cost and overall outcome, not on emotional overreaction after the fact to an individual circumstance or case—no matter how tragic. Our laws and policies must be based on well-thought-out ideas supported by research.

To protect our citizens from juvenile crime, we must identify dangerous or violent juveniles and properly supervise or incarcerate them. To further protect our citizens from juvenile crime, we must redirect from prosecution and juvenile institutions those juveniles who are not dangerous or violent but whose real problems are driven by mental health, substance abuse and co-occurring disorders; learning disabilities; and neglectful families.

Goals of FACJJ's Vision of Bold Leadership

- ◆ Our Nation will refocus on policy and laws that promote public safety and the wellness, health, and safety of children and families.
- ◆ There will be a rational, meaningful emphasis on the prevention of juvenile delinquency.
- ◆ New laws, policies, and juvenile justice initiatives will reflect research and evidence, not public misconception and reactions to a sensational event or crime.
- ◆ The processing of individual juvenile cases will reflect fundamental fairness, equal treatment, and due process.
- ◆ Each child will have timely access to the effective assistance of counsel.
- ◆ Children will be placed in secure pretrial detention only when necessary to protect the public or to ensure the juvenile will appear in court.

- ◆ Delinquency issues will be effectively screened and separated from issues of mental health, substance abuse, and co-occurring disorders; disability; and child welfare and protection; and the individual cases and needs of juveniles will be processed and treated accordingly.
- ◆ Children will not be prosecuted or incarcerated unless warranted by criminal behavior. Youth who are not violent or dangerous will be served outside of, or only to the minimum extent necessary, by the juvenile justice system.
- ◆ Bold, smart leadership choices will enhance prevention, reduce the level of juvenile crime, and produce safer neighborhoods. The resulting number of youth in the juvenile justice system will be diminished; minority youth will not be overrepresented; and the proper matching of services to individual needs will produce a generation of healthier, more productive youth.
- ◆ FACJJ acknowledges the need for greater diversity within the State Advisory Groups (SAGs), and FACJJ members will act to promote diversity within their own SAGs.

Accordingly, FACJJ respectfully proposes:

FACJJ's Vision of Bold Leadership for the President

- ◆ Publicly identify juvenile justice as a national concern and priority and demonstrate this commitment by, for example, sponsoring and leading a national symposium on juvenile justice.
- ◆ Appoint a capable, experienced Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator who will put the mission of the Juvenile Justice and Delinquency Prevention (JJDP) Act and the juvenile justice priorities identified by the States and territories ahead of partisan and personal priorities.

- ◆ Insist that juvenile justice laws and policies make sense.
- ◆ Propose effective juvenile justice funding for States, territories, and OJJDP.

FACJJ's Vision of Bold Leadership for Congress

- ◆ Promptly reauthorize the JJDP Act.
- ◆ Appropriate effective juvenile justice funding for the States, territories, and OJJDP; as an initial step, restore juvenile justice funding to the budget levels of fiscal year 2002.
- ◆ Require research that identifies all consequences before adopting new or more stringent policies or laws.
- ◆ Recognize that some laws and policies will reduce juvenile crime and that some will increase juvenile crime and make smart, informed choices accordingly.
- ◆ Expand the core protections of the JJDP Act to require meaningful action by States and territories to address the overrepresentation of minority youth in the juvenile justice system and to provide youth access to the effective assistance of counsel. These two steps will steer at-risk juveniles away from paths toward crime and will embrace basic rights for fair treatment of all juvenile offenders.
- ◆ Act immediately to include appropriate representation of American Indians in the membership of FACJJ.

FACJJ's Vision of Bold Leadership for the Attorney General

- ◆ Assist the President in the selection of a new OJJDP Administrator who is capable and experienced in juvenile justice and who possesses integrity and a

commitment to the vision of leadership reflected in this Annual Report.

- ◆ Engage in regular discussions about juvenile justice issues with the OJJDP Administrator and expect sound, responsible decisions from OJJDP.
- ◆ Honor the role of SAGs and meaningfully seek input from the States and territories.
- ◆ Raise the level of awareness of juvenile justice within the U.S. Department of Justice.
- ◆ Recognize and honor the role of OJJDP.
- ◆ Recognize and honor the role of FACJJ.

FACJJ's Vision of Bold Leadership for the Administrator of OJJDP

- ◆ Take immediate and affirmative steps to restore public confidence and trust in OJJDP.
- ◆ Meaningfully, routinely, and openly communicate with States and territories.
- ◆ Demonstrate transparency in decisionmaking.
- ◆ Demonstrate reasonableness and fairness in interpretations and applications of laws and policies.
- ◆ Commit to the principles of juvenile justice reflected in this Annual Report and in the Core Values of FACJJ.
- ◆ Award discretionary grants in a manner consistent with juvenile justice priorities and only pursuant to an accepted process of independent, external review and scoring.
- ◆ Support the role of SAGs.
- ◆ Support the concept and process of independent Annual Reports to the President, Congress, and OJJDP Administrator.
- ◆ Be an advocate for smart legislative and policy choices, promote research, and publish the results.
- ◆ Support and honor the role of FACJJ.
- ◆ Act immediately to include appropriate representation of American Indians in the membership of FACJJ.
- ◆ Use the diversity and experience of FACJJ members to promote juvenile justice reform.



CHAPTER 5

Recommendations

Members of the Federal Advisory Committee on Juvenile Justice (FACJJ) call for renewed leadership by the President, Congress, Attorney General, and Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator and stand ready to assist our leaders to address the juvenile justice challenges that our Nation faces. In support of the goals outlined in the previous chapter, FACJJ specifically makes the following recommendations:

- ◆ **Congress should act quickly to reauthorize the Juvenile Justice and Delinquency Prevention (JJDP) Act with the encouragement of the President to signal that juvenile justice is a priority in the new administration.**
- ◆ **The President, Congress, Attorney General, and OJJDP Administrator should use OJJDP to return our Nation and OJJDP to the core principles that have successfully guided juvenile justice to greater levels of community involvement and lower levels of juvenile crime.**

These principles are embodied in the JJDP Act and promote public safety through prevention, meaningful programs, engagement of local leadership, and basic protection of youth. OJJDP is the operative arm of our Federal Government for achieving these goals. OJJDP must be strengthened and supported and held to a high standard.

The President, Congress, and Attorney General should provide the necessary policy discussions and debate, support, and resources to restore juvenile justice as a national priority. The President is requested to lead a national conference on juvenile justice.

The President and Attorney General should elevate the organizational status and role of OJJDP within the U.S. Department of Justice (DOJ) to reflect the relative national importance of juvenile justice.

Congress should promptly appropriate effective funds to OJJDP (an amount at least equal to fiscal year 2002 appropriations) to enable the agency to conduct research, collect data, conduct evaluations, identify best practices, provide training and technical assistance, and disseminate information.

The President should nominate and Congress confirm the appointment of a capable individual experienced in juvenile justice with demonstrated integrity and a willingness to work with States and territories to serve as OJJDP Administrator.

- ◆ **Congress and U.S. Department of Justice should ensure that new laws and policies related to juveniles are grounded in solid research and evaluation and commit to following up on the long-term results and consequences of any new statutes. Legislation and DOJ and OJJDP policy interpretations that impact juvenile justice should reflect reason and logic, even in the face of public pressure to respond to an individual tragedy.**

Well-intended legislation that addresses both adult and juvenile offenders must examine the impact on these two groups separately. Before drafting such legislation, Congress should seek research assistance from OJJDP, which should in turn solicit input and comment from the States and territories. An example of unintended consequences is the Sex Offender Registration and Notification Act, commonly referred to as the Adam Walsh Act. Although it is clearly important for States to adopt legislation and policies to address the risks posed by sex offenders to ensure public safety, this mandatory registration law applies to all sex offenders and does not take into account critical differences between juvenile and adult sex offenders.

Congress can elevate the importance of making decisions based on research by appropriating sufficient funding to allow OJJDP to once again support a robust research agenda. Once the premier Federal agency for juvenile justice research, OJJDP has seen its research function slip away over the past several years. Much of the research previously supported by OJJDP is now being conducted by DOJ's National Institute of Justice (NIJ). Although NIJ is a highly regarded agency, juvenile justice is distinct from adult criminal justice, and juvenile justice research deserves to remain a separate entity. It should be housed back where it belongs: in OJJDP.

- ◆ **DOJ and Congress should re-examine the Adam Walsh Act and limit its juvenile registration requirements to those juvenile sex offenders who a court determines represent a continuing danger to the public.**

Intended to protect children from sexual predators, the Adam Walsh Act's broad application has unintentionally required certain juvenile offenders to be publicly registered as sex offenders for life. A consequence is the unnecessary impact on certain nonpredator children who will never be permitted to effectively function and prosper in our society, and for whom the odds are thus increased that when labeled as dangerous and denied housing, education, and employment opportunities, they will be at greater risk to further engage in criminal activity.

Furthermore, research shows that juvenile sex offenders are different from adult sex offenders and, in many cases, do not present the same risks as adults who commit sex crimes. Juvenile sex offenders are less likely to reoffend than adults, especially if they receive appropriate treatment.

- ◆ **OJJDP should reinforce and expand its training and technical assistance programs to help States and territories strengthen the infrastructure of their juvenile justice systems.**

States need continuous and enhanced training and technical assistance on how to comply with the provisions of the JJDP Act. Comprehensive training is also needed by all juvenile justice stakeholders (including law enforcement, prosecutors and defense attorneys, judges, juvenile justice and social service agencies, and corrections) to ensure that evidence-based or promising programs are implemented with fidelity and are appropriately adapted to meet a particular State's needs. Such technical assistance leads to research-driven programs and policies that reduce recidivism.

- ◆ **OJJDP must adopt a fair and open process by which it engages the States and territories in a timely manner regarding its enforcement or revision of JJDP Act compliance criteria, DOJ and OJJDP regulations, and the dissemination of official information.**

DOJ must oversee this process and allow States and territories access to DOJ for resolution when State and territorial concerns cannot be satisfactorily resolved with OJJDP.

- ◆ **OJJDP should establish a process for regular, periodic discussions of juvenile justice between OJJDP leadership and State and territorial juvenile justice practitioners, researchers, policymakers, and leaders.**

Such dialog will result in continuous healthy debates, expand awareness and understanding, facilitate willingness to compromise, and identify common ground to successfully address the diverse challenges facing juvenile justice.

- ◆ **OJJDP must perform its policy and grant-awarding functions openly and with integrity.**

It is imperative that OJJDP restore public confidence by a demonstration of honest, transparent leadership. Under all circumstances, OJJDP must award its discretionary grants only through a competitive process that includes established, published criteria and external peer reviews conducted by expert panelists. Discretionary grants must be awarded only to appropriate recipients and only for meaningful, relevant juvenile justice programs that respond to our most pressing priorities.

- ◆ **The new OJJDP Administrator must take bold and affirmative steps to restore OJJDP to a respected juvenile justice leadership role.**

The Administrator and staff of OJJDP must conduct the agency's business in a professional manner, be reasonably accessible to State and territorial representatives, and respond in a timely manner to issues and questions. OJJDP must meaningfully collaborate with States and territories regarding juvenile justice issues. This collaboration must include timely access to OJJDP management and staff for States and territories to identify issues, discuss concerns, and resolve problems. This give and take is especially needed when OJJDP revises JJDP Act compliance criteria and regulations imposed on States. OJJDP must seek timely public review and input when revising such regulations.

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APPENDIX

Summaries of Past FACJJ Annual Reports

The Federal Advisory Committee on Juvenile Justice (FACJJ) has published five previous Annual Reports to the President and Congress. These past Annual Reports contain well-researched discussions and thoughtful recommendations that respond to priority concerns that States and territories identified in their responses to the annual FACJJ questionnaire. These past reports discuss in more detail many of the issues highlighted in this 2009 Annual Report. The past Annual Reports are summarized below and can be accessed from the FACJJ Web page at www.facjj.org/annualreports.html.

- ◆ The 2008 *Federal Advisory Committee on Juvenile Justice Annual Report* urges the President and Congress to reauthorize the Juvenile Justice and Delinquency Prevention (JJDP) Act and reports on the progress States and territories have made in meeting the core protections outlined in the Act. The Report contains indepth discussions and 19 recommendations that address the deinstitutionalization of status offenders; jail removal and sight and sound separation; disproportionate minority contact; the effective assistance of legal counsel; and mental health, substance abuse, and the juvenile justice system.
- ◆ The 2007 *Federal Advisory Committee on Juvenile Justice Annual Report* urges the President, Congress, State and local policymakers, citizens, and juvenile justice practitioners to ask some serious questions about the future of the juvenile justice system. The Report looks at rehabilitation versus a punitive approach to juvenile justice and asks whether the juvenile justice system should treat delinquent youth as juveniles or adults. The Report, which contains 15 recommendations, also addresses disproportionate minority contact (DMC), mental health assessment and treatment, detention reform, substance abuse treatment, and juvenile substance abuse. The Report includes a resolution passed by FACJJ concerning proposed regulations dealing with implementing the Sex Offender Registration and Notification Act.
- ◆ The 2006 *Federal Advisory Committee on Juvenile Justice Annual Report* contains 18 recommendations targeted at a number of serious juvenile justice issues. The Report examines the need for each youth who comes into contact with the justice system to have access to adequate substance abuse and

mental health treatment. The Report also addresses DMC, noting the need for funding to support data collection, research and evaluation, and replication activities. The Report calls for more research, evaluation, and implementation of evidence-based programs to prevent delinquency; increased Federal funding; and reauthorization of the JJDP Act. Finally, the Report raises several issues concerning the practice of sentencing convicted juveniles to prison for life without the possibility of parole.

- ◆ The 2005 *Federal Advisory Committee on Juvenile Justice Annual Report* stresses the need for national leadership and advocacy to address juvenile delinquency. It discusses the detrimental effects congressional earmarks have on Federal funding for youth programs. The Report highlights a number of serious juvenile justice issues that call for advocacy,

including adolescent brain research and its implications for the juvenile justice system; the number of minority youth in the juvenile justice system; tribal youth issues; the methamphetamine crisis and its effect on children and families; and the exploitation of children through the Internet. The Report contains 10 recommendations that address these issues.

- ◆ The 2004 *Federal Advisory Committee on Juvenile Justice Annual Report*, the first FACJJ report, looks at juvenile crime past and present. It provides an overview of the need for prevention and points out that Federal funding for prevention activities are shrinking. The Report focuses on a number of issues: minorities in the juvenile justice system, juvenile female offenders, mental health and substance abuse, waivers and transfers, child abuse, and youth gangs. The Report concludes with 13 recommendations.

COMMITTEE MEMBERS

Federal Advisory Committee on Juvenile Justice

State	Primary Member	Alternate Member
Alabama	Gerald H. Love/Tim Bagwell	Jane Cunningham/Martha Ellis
Alaska	Vicki J. Blankenship	Tina M. Woods
American Samoa	Ala'alamua La'auli A. Filoiali'i	John Lutali/Roy Ausage
Arizona	Dennis Pickering	Myrtle Young
Arkansas	Jerry Walsh/Wiley Branton	Luke Flesher/Donnell Hegler
California	Susan Harbert	Sandra McBrayer
Colorado	Bob Pence/Katie Wells	Katie Wells/Bob Pence
Connecticut	Janice R. Giegler/Debra Lee Hovey	Debra Lee Hovey
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Kentucky	Todd P'Pool	Racynnio Rankin
Louisiana	Bernardine Adams/Ronald Rossitto	TBD
Maine	Patrick Walsh	Joan McDonald
Maryland	Ron Rivlin	Heber E. Watts, Jr.
Massachusetts	Cecely Reardon	Wesley J. Cotter
Michigan	Jeffrey Fink	Jeriel Heard/Kenyatta Stephens
Minnesota	Richard Gardell	Antonio Tejeda

State	Primary Member	Alternate Member
Mississippi	Randy Pierce/Stewart Rutledge	Kathy Henry/Alfred Martin
Missouri	Edwin F. Morris	Robert “Keith” Wood
Montana	Pamela Kennedy	Joy Mariska
Nebraska	Chris Connolly/Linda Benjamin	Ron Johns
Nevada	Dan Prince	Daniel Coppa
New Hampshire	Eddie Edwards	Paul Lawrence
New Jersey	Carlos Hendricks	TBD
New Mexico	Ronald M. Lucero	Merle Lefkoff
New York	Darius Pridgen	Karen Richmond
North Carolina	Robert (Robin) Jenkins	Linda Wheeler Hayes
North Dakota	Tim Eissinger	Karen Kringlie
North Mariana Islands	Patrick Diaz	Perry M. Iguel
Ohio	Tom Mullen	David Stucki
Oklahoma	John Selph	John Selph/Virginia Spear
Oregon	Faye Fagel	Jay Dixon
Pennsylvania	James E. Anderson	James E. Randolph
Puerto Rico	Juan Casillas	German R. Monoroig/Aida N. Molinary de la Cruz
Rhode Island	Jeremiah S. Jeremiah, Jr.	Ron Pagliarini
South Carolina	Harry W. Davis, Jr.	John D. Elliott
South Dakota	Douglas Herrmann	Gib Sudbeck
Tennessee	Cindy Durham	Beverly Cosley
Texas	Elizabeth Godwin	Harold Gaither
Utah	Gini Highfield	Gabrielle Anderson
Vermont	Deb Haskins	Daniel Smith
Virginia	Jerrauld C. Jones/Warner D. Chapman	Warner Chapman/Barry Green
Virgin Islands	Clema S. Lewis	Melody Rames
Washington	Paul Holland/David Brown	David Brown/Paul Holland
West Virginia	Phyllis Stewart	Arnold Leftwich
Wisconsin	Deirdre Garton	Tasha Jenkins
Wyoming	Bruce B. Waters	Raine Lowry

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