

## Federal Advisory Committee on Juvenile Justice

### Summary of Meeting

#### May 17–18, 2005

The Federal Advisory Committee on Juvenile Justice (FACJJ) convened at 9:00 a.m. on May 17, 2005, at the Hilton Hotel in Albuquerque, New Mexico. The meeting was called so that the full committee could discuss the first drafts of the 2005 annual reports, one to the President and Congress and one to the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Prior to discussing the reports, David Iglesias, U.S. Attorney for the District of New Mexico, and J. Robert Flores, OJJDP Administrator, addressed the group. The four FACJJ subcommittees—annual report, grants, legal affairs, and planning—also presented reports and recommendations, which were developed during a working lunch, to the full FACJJ. A resolution addressing pending Federal gang legislation was also discussed. The first day concluded with a working dinner at the Pueblo Center. A series of speakers and panels discussed Indian Country issues during a second half-day session of training.

#### Federal Advisory Committee Members Present

**Chair:** David R. Schmidt (Primary): New Mexico

**Vice Chair:** Hasan Davis (Primary): Kentucky

**Parliamentarian:** Mark A. Johnson (Primary): North Dakota

Joe M. Thomas (Primary): Alabama

Barbara Tyndall (Primary): Alaska

Derrick Johnson (Primary): Arizona

Jerry K. Walsh (Primary): Arkansas

Timothy Brandau (Alternate): Delaware

Jenise “Jo” Patterson (Primary): District of Columbia

Robert M. Evans (Primary): Florida

Adam Poppell (Primary): Georgia

Christopher M. Duenas (Alternate): Guam

Linda C. Uehara (Primary): Hawaii

Scott Mosher (Primary): Idaho

Patricia Connell (Alternate): Illinois

Robert Mardis (Primary): Indiana

Ken Moore (Primary): Kansas

Bernadine S. Adams (Primary): Louisiana

Edwin Chester (Primary): Maine

James G. Kirk (Primary): Maryland

Michael Mayer (Primary): Minnesota

Alfred L. Martin, Jr. (Primary): Mississippi

Steven Rice (Primary): Montana

Dan Prince (Primary): Nevada

Glenn Quinney (Primary): New Hampshire  
George Yefchak (Alternate): New Jersey  
Michael Elmendorf II (Primary): New York  
Robert (Robin) Jenkins (Alternate): North Carolina  
J. Thomas Mullen (Primary): Ohio  
Billy Wasson (Primary): Oregon  
Daniel Elby (Primary): Pennsylvania  
Juan Casillas (Alternate): Puerto Rico  
Harry Davis, Jr. (Primary): South Carolina  
Janine Kern (Primary): South Dakota  
Cindy Durham (Primary): Tennessee  
Dick Smith (Primary): Vermont  
Robert E. Shepherd, Jr. (Primary): Virginia  
Sergio Hernandez (Alternate): Washington  
Phyllis Stewart (Alternate): West Virginia  
John E. Frentheway (Primary): Wyoming

American Samoa, California, Colorado, Connecticut, Iowa, Massachusetts, Michigan, Missouri, Nebraska, Northern Marianas, Oklahoma, Rhode Island, Texas, Utah, and Wisconsin were not represented at this meeting.

#### **Office of Juvenile Justice and Delinquency Prevention**

J. Robert Flores: Administrator  
Greg Thompson: Associate Administrator, State Relations and Assistance Division  
Chyrl Andrews: Deputy Associate Administrator, State Relations and Assistance Division  
Jeff Slowikowski, Associate Administrator, Demonstration Programs Division  
Laura Ansera: Program Manager, Tribal Youth Program  
Robert Samuels: Outgoing Acting Designated Federal Official  
Robin Delany-Shabazz: Designated Federal Official

#### **Report Writer**

Kay McKinney

#### **Juvenile Justice Resource Center**

Daryel Dunston: Juvenile Justice Specialist  
Wanda Keyes: Meeting Planner  
Mary Tang Sheahan: Coordinator

#### **Observers at Open Meeting**

Michon A. Battle: Vice President of Operations, Peaceoholics Inc., Washington, D.C.  
David J. Doi: Executive Director, Coalition for Juvenile Justice, Washington, D.C.  
Reagyn Germer, Native American Protection and Advocacy Project, DNA People's Legal Services, Farmington, New Mexico  
Sandra Gomez: Staff Attorney, Protection and Advocacy System, Inc., Albuquerque,

New Mexico

Denise Guitierrez: United States Attorney's Office, Albuquerque, New Mexico.

Andrew Harris, Jr.: Special Assistant to the President, Georgia Institute of Technology, Atlanta, Georgia

Ron Lopez: United States Attorney's Office, Albuquerque, New Mexico.

Teresa Lurry: Teresa Lurry Consulting, Port St. Lucie, Florida

Richard Lindahl, Juvenile Justice Specialist, NMJJAC, Santa Fe, New Mexico

**May 17, 2005**

**Welcome and Opening Remarks**

Chairman David Schmidt opened the meeting and welcomed the participants to New Mexico. Because there were some new FACJJ members in attendance, Mr. Schmidt asked everyone to introduce themselves. He then turned the meeting over to OJJDP Administrator J. Robert Flores, who introduced David Iglesias, U.S. Attorney for the District of New Mexico.

**Remarks from U.S. Attorney:** Mr. Iglesias provided a "snapshot" of New Mexico and Indian Country issues. There are approximately 175,000 Native Americans living in the state in 19 different pueblos. The state has the highest percentage of Native Americans of any Federal jurisdiction; only Arizona and South Carolina have more prosecutions involving Native Americans.

Tribes or local prosecutors handle most juvenile cases. Penalties in juvenile tribal cases range from traditional tribal methods of counseling or referral to more modern intervention approaches such as probation, community service, detention, and in some cases, transfer to adult status. Mr. Iglesias' office prosecutes an average of four Native American juvenile cases per year. His office also puts a priority on working with victims and witnesses in Indian Country.

Mr. Iglesias noted a rise in juvenile gang activity in both the state and Indian Country and referenced pending legislation in the U.S. Congress that would allow youth 16 years and older charged with gang-related crimes to be transferred for trial as adults in Federal district court upon certification by a U.S. Attorney. He predicted that the U.S. Department of Justice would conduct more gang prosecutions in the near future.

According to Mr. Iglesias, although violent crime is at a 30-year low in the country, hot spots, which include Indian Country, remain. His office is working with tribal leaders to figure out ways other than law enforcement to stop young people from even getting into the system.

**Remarks from OJJDP Administrator:** Mr. Flores stressed that FACJJ members represent their governors' positions on juvenile justice issues. He challenged the members to act as visionaries and to articulate the major juvenile justice issues facing the country today and to assist OJJDP in figuring out how to address these issues.

**Budget** Mr. Flores said the fFederal budget will continue to be very tight, forcing states to take a hard look at how and what they invest in juvenile justice. He said most state agencies do not collaborate or coordinate resources when planning their individual budgets. Mr. Flores encouraged FACJJ and State Advisory Group (SAG) members to reach beyond the juvenile and criminal justice arenas in their states and to build partnerships with other state agencies, businesses, and organizations that address youth issues, including nutrition, health, and education. This could help SAGs access budgets that are substantially larger than their juvenile justice budgets. Mr. Flores also asked FACCJ to let OJJDP know what types of resources and tools they and their SAGs need to help convince governors and state legislators that they must coordinate agency resources and provide more funding for juvenile justice programs. Mr. Flores also offered to meet with a select number of governors and/or state cabinet secretaries to discuss collaboration and coordination.

In a question from the floor, Mr. Flores was asked to clarify whether fFederal lobbying laws allow SAG and FACJJ members to talk to their governors, legislators, and the media in order to influence legislation. Mr. Flores responded that FACJJ and SAG members are appointed by their governors and are expected to educate governors and state legislators about juvenile justice issues. He said that the lobbying restriction addresses the expenditure of fFederal funds to influence legislation. If FACJJ members are uncertain about what they can or cannot do, Mr. Flores suggested they contact the OJJDP Designated Federal Official (DFO) for further clarification. states interested in setting up a meeting between Mr. Flores and their governors should also contact the DFO.

**Public and Media Perceptions of Juvenile Crime and Gang Activity:** Mr. Flores also discussed the disconnect between reality and public perceptions of juvenile crime, especially gang-related crime. He said some communities have received a substantial amount of Federal resources even though the level of gang activity in these communities is limited compared to other communities. The infusion of Federal dollars has stemmed, in part, from the sensational nature of these crimes (murders, kidnappings, etc.) that grabbed the attention of the media and the public. The resulting sensationalism has also led the public to believe that nothing is being done to combat juvenile gangs. Mr. Flores said that in reality, U.S. Attorneys, the Justice Department, state and local law enforcement, and prosecutors are finding ways to successfully address juvenile gang activity.

He said emerging research about gang membership is encouraging. This research convincingly demonstrates that if a juvenile's involvement with gangs can be delayed as long as possible, his/her formal involvement in the gang lasts only a short time. Mr. Flores also noted a new gang phenomenon: the multigenerational gang member. This is a child whose father, grandfather, and possibly great-grandfather have belonged to the same gang over the years. Intervening with these youth is not the same as intervening in the lives of youth who are simply looking at a gang from the outside.

Mr. Flores said the media does not deliver a balanced and complete message about youth. He referenced a report the Coalition for Juvenile Justice (CJJ) published several years

ago that addressed the way the media covers juveniles and juvenile crime and said that OJJDP will work with the media over the next year to bring attention to this issue. (The CJJ report, *False Images: The News Media and Juvenile Crime*, was published in 1997.) The Office plans to invite reporters, news directors, owners of large organizations that own multiple radio and television stations and newspapers, and members of the business community to discuss the importance of presenting a balanced picture of youth. OJJDP also plans to ask SAGs about their interactions with the media and coverage in their states about youth issues. Media coverage drives a tremendous amount of legislation. It also influences what the public expects of youth. A public that sees only those children who fail spectacularly, rather than those who are tremendous successes, may be less likely to support programs needed to help youth. Mr. Flores asked FACJJ and SAG members to talk with their governors' and mayors' press secretaries about the media's portrayal of youth issues in their states. FACJJ members offered the following suggestions for OJJDP's proposed media outreach:

- Include grassroots and multimedia companies.
- Reach out to independent newspapers in smaller communities.
- Involve the Society of Professional Journalists (formerly Sigma Delta Chi) and the *Columbia Journalism Review* (a media watchdog magazine published by the Columbia University Graduate School of Journalism).

Mr. Flores also discussed the rate of juvenile institutionalization and expressed concern that some states may be releasing juvenile detainees based solely on budget shortfalls. This is a poor reason for release, he said. On the other hand, using appropriate assessment tools to determine which youth to release may help reduce levels of institutionalization without threatening public safety and could provide better outcomes for the youth; it could also free up resources to devote to those who need more intensive services and care. Mr. Flores invited FACJJ members whose states would be interested in working with OJJDP to reduce their rate of institutionalization to contact him. OJJDP would like to know what resources, technical assistance and training, or assessment tools the states need to address this issue.

**Youth Gang Initiative:** OJJDP has a gang reduction program underway in four cities: North Miami Beach, Florida; Los Angeles, California; Milwaukee, Wisconsin; and Richmond, Virginia. Mr. Flores said the program is notable because it represents a Federal multiagency response to gangs that has been translated into a local multiagency response. The program includes diversion, intervention, and suppression activities. The results have been so positive so quickly that some of the mayors participating in the program are beginning to spend local dollars to start similar multiagency efforts in other parts of their cities. Mr. Flores invited, and in fact recommended, that FACJJ members meet with OJJDP's gang coordinator to learn about this initiative.

**Transfer Issue and Gang Resolution:** Mr. Flores also discussed the issue of transferring youth to adult court for prosecution of certain crimes. He referred to the Federal gang legislation mentioned earlier by Mr. Iglesias. Although both the Senate and House have introduced legislation related to youth gang crime, the House bill, which allows youth 16 years and older charged with gang crimes to be transferred to adult court, passed first.

Therefore, it will be the bill that goes to committee for conference. Mr. Flores said many do not believe it is the better of the two bills; he also noted some FACJJ members oppose the principles of the bill. However, he said, if members look at what their governors have recently funded, at legislation that has been introduced in their states, or at money that is being spent on gang task forces, then opposing the legislation may not be in accord with the positions of their states. In reference to a proposed FACJJ resolution (to be voted on later in the meeting) opposing the House bill, Mr. Flores stated his position is that FACJJ is not in a position to consider and formally vote out a resolution.

In response to a comment from the floor, Mr. Flores said that although he understands FACJJ's concern with the transfer issue, many governors are on record as moving in the same direction as the pending Federal legislation. As representatives of their governors, he said, it is important for FACJJ members to consider how any resolution or recommendation fits with or reflects the stated position of their governors. He said there may be a way to focus on the parts of the legislation with which the FACJJ does not agree and call on OJJDP to bring additional information (such as research findings which indicate transfer is not working) to the attention of Members of Congress or other parts of the administration. Mr. Flores believes this would be a more effective way to move the discussion forward rather than stating outright that FACJJ opposes the Federal gang legislation.

**Annual Reports:** Mr. Flores also discussed the draft 2005 FACJJ Annual Reports to the President and Congress, and to the Administrator. Instead of being a long list of recommendations, he suggested that the reports focus on larger issues that need to be addressed by the President, Congress, and OJJDP, and identify ways to address these issues. He would like to use the reports to help OJJDP determine what national strategies to pursue, what pilot programs to build, and how to spend the Office's small pocket of discretionary funding. He urged the committee to develop a consensus document that will challenge people in the way they think about children. He stressed the need for consensus, noting that some states have taken positions contrary to some of the recommendations in last year's reports. He wants to know where the states actually stand on issues, not where FACJJ members want them to stand.

Mr. Flores was asked if FACJJ took the time to elaborate a strong strategy to address a particular issue in the annual reports, how much weight would OJJDP really be able to give the report in terms of responding to the strategy. Mr. Flores responded that he was not suggesting that FACJJ come up with a very detailed plan. Instead, he would like FACJJ to identify the most pivotal and overarching issues facing the field and suggest steps toward solutions, especially those steps that are not readily apparent or typical. Some U.S. Attorneys, for example, support youth courts as a gang intervention mechanism. This is a natural, though atypical, prosecutorial stance because it redirects first-time juvenile offenders into a supervised, caring environment. He also urged FACJJ to identify and build on commonalities between opposing perspectives and avoid recommendations that might alienate potential partners. It is not very useful, he said, to develop a set of recommendations that identifies one of the major players as a chief obstacle if there is a way instead to enlist that entity as part of the solution. Mr. Flores

also noted the value of having most of the recommendations reflect the views of as many states and governors as possible, adding “I would like to see the recommendations be ones where you could never find a governor that would say ‘that is not my position on this issue.’” Mr. Flores said that when he meets with governors, members of Congress, or members of the Coordinating Council on Juvenile Justice and Delinquency Prevention to discuss juvenile justice issues, “it would be more powerful if I am able to indicate that these aren’t just my views or the views of the administration, but that the majority of governors really think this is the way to go. On some of the issues, the advocates are in a very different place than are the state governments.” Finally, he said, the bully pulpit should not be used to bash or bully individuals or entities, but could be used as an effective rallying point. It can also be used to help inform states about issues, such as those involving gangs.

Annual Report (AR) Committee Co-Chair Bob Shepherd expressed concern about this redirection of the annual reports, saying it was the committee’s understanding from the first meeting in Point Clear, Alabama, in January 2004, that OJJDP wanted the reports to focus on specific recommendations related to administering the JJDP Act. Asking the committee to broaden the focus of the reports represents a different direction, he said. He asked Mr. Flores to provide the committee with a clear charge regarding the reports. Mr. Flores responded that he was not asking the committee to depart from making some very good and very detailed recommendations, but rather, to: (1) clearly define the broad, underlying factors driving the recommendations, (2) group related recommendations together; and (3) prioritize them.

**Accountability-Based Sanctions Supplement** Mr. Flores also announced that the states will receive their fiscal year (FY) 2005 Accountability-based Sanctions (ABS) supplement to their Formula Grants awards. (The ABS is an additional amount of money awarded to states participating in the Formula Grants program to implement programs that hold juveniles accountable for their activities; language providing for the supplement was removed in both the FY 2004 and 2005 appropriations bills.) Mr. Flores said the Senate has assured OJJDP that the language will be permanent in future appropriations bills so OJJDP will not have to request the ABS supplement every year. Mr. Flores was asked if the language will be included only in the appropriations bill or if it will be permanent language in the JJDP Act itself. He responded that there is no current authorizing piece of legislation to which the language can be attached, but OJJDP will work to make sure the language is included in the next reauthorization bill.

**New Designated Federal Official:** Mr. Flores concluded his remarks by introducing Robin Delany-Shabazz, the new designated Federal official (DFO). She has been with OJJDP for a number of years, most recently with OJJDP’s Child Protection Division, and is committed to helping at-risk children. Mr. Flores also thanked Bob Samuels, the Acting DFO, for his efforts with FACJJ over the past 6 months.

Mr. Schmidt thanked Mr. Flores for the substantive discussion before moving on to the discussion of the drafts of the 2005 annual reports.

### **Report of AR Subcommittee and Discussion of 2005 Annual Reports**

Mr. Shepherd said the annual reports to the President and Congress and to the OJJDP Administrator were built around the states' responses to a Planning Committee survey sent to FACJJ members at the end of September 2004. (About half of the states responded to the survey.) The draft recommendations are intended to reflect the concerns states expressed in their responses.

**Report to the President and Congress.** Mr. Shepherd opened the floor to discussion of each recommendation. Other than minor word changes and tweaking, most of the 12 draft recommendations in the Report to the President and Congress generated no debate. Those that did include:

- Recommendation 5, which asks Congress to amend the JJDP Act so that a state found out of compliance with any of the four core requirements of the act is financially penalized in the same year it is found out of compliance rather than a year later, as the law currently reads. Several FACJJ members disagreed with this recommendation, saying they believed a state should be given a chance to come into compliance before being penalized. Greg Thompson, Associate Administrator of OJJDP's state Relations and Assistance Division, explained that the law, as currently written, requires OJJDP to impose a financial penalty on a state a year after it is found out of compliance whether or not the state comes back into compliance. If the Act is amended so that the penalty goes into effect the same year in which a state is deemed out of compliance, OJJDP has an opportunity to work with the state to help them come back into compliance so that they do not lose money. Because there was enough division about this recommendation, Mr. Shepherd put the recommendation before the FACJJ as a motion from the AR Committee to be included in the 2005 Report to the President and Congress. The motion carried by a show of hands: 24 ayes, 15 opposed. The AR Committee will clarify the recommendation and make it clearer in the final draft.
- Recommendation 9, which asks for an increase in funding to combat computer-based exploitation of children. Several members noted the seriousness of this issue and suggested it be given higher priority. It was also suggested that the recommendation include a specific dollar amount so that it is not funded out of existing appropriations money. The AR Committee was asked to enhance the recommendation by asking OJJDP and OJP to strengthen the ways states work together to prosecute these crimes. Mr. Shepherd said that would have to be done in the Report to the OJJDP Administrator.
- Recommendation 10, which asks that the JJDP Act be amended so that Federal agencies with jurisdiction over youth are required to comply with the four core requirements of the Act. There was some confusion over the statement in the recommendation that a financial penalty should not be imposed on states. AR Committee Co-Chair Pat Connell explained that if the law was amended so that if Federal agencies, such as the Bureau of Indian Affairs, U.S. Park Police, etc.,



were required to abide by the core requirements, commit a violation of these requirements, the state in which the violation took place would not lose any of its formula grant money. The AR Committee will clarify and finetune the recommendation for the final draft.

At the end of the discussion, Mr. Schmidt entertained a motion from Mr. Shepherd that FACJJ approve the basic core recommendations in the 2005 Annual Report to the President and Congress, subject to edits to be done in response to issues and concerns raised during the discussion. The motion carried.

Mr. Schmidt then adjourned the meeting for a working lunch and directed the subcommittees to meet to prepare their recommendations to the chair for presentation to the FACJJ.

**Report to OJJDP.** The FACJJ reconvened after lunch and began considering the 26 draft recommendations to the OJJDP Administrator. The following recommendations resulted in substantial discussion:

- Recommendation 3, which asks OJJDP to continue to find funding for the ABS supplement if Congress does not reinstate the ABS language in future appropriations bills. The Grants Committee is to provide clarification to the AR Committee regarding the language in this recommendation.
- Recommendation 12, which asks OJJDP to support the early appointment of quality counsel for juveniles. Several individuals noted the role counsel, or lack thereof, can play in reducing disproportionate minority contact (DMC). There also was some debate about whether the issue is the need for fulltime juvenile defenders or for more training for attorneys who represent juveniles. The issue of a certification process for attorneys handling juvenile cases was also raised. The AR Committee will strengthen this recommendation.
- Recommendation 16, which addresses a state's compliance with the JJDP Act when youthful offenders are tried in adult court but sent to juvenile facilities. The following recommendation, proposed by Ms. Connell, was accepted by the FACJJ: "The FACJJ recommends that OJJDP approach the Office of General Counsel to modify Federal regulations to permit the continued confinement and treatment of individuals who are tried as adults for crimes committed before their majority with those tried as juveniles for so long as the holding authority confines such juvenile delinquents."

Other issues raised during the discussion included DMC and the need to mention some cutting-edge programs; the rising problem of meth use and the devastation it causes; the need to find a balance between implementing proven and innovative programs; the relationship between gangs and drug use, especially crack cocaine; and the overprescription of Ritalin at the referral of some school districts. Several FACJJ

members asked the AR Committee to consider toning down Recommendation 18, which addresses collaboration among OJJDP, FACJJ, and the CJJ.

The question was called, and seconded, to vote on the 2005 Report to the OJJDP Administrator. The motion carried. Mr. Shepherd moved that the FACJJ adopt the recommendations, subject to edits and additions to address issues raised during the discussion. The motion carried. Adam Poppell (Georgia) is on record as voting “No” for Recommendation 18 and for supporting all the other recommendations.

The revised reports to the President and Congress and to the OJJDP Administrator will be presented to the full body for final approval at the fall meeting in October in San Antonio, Texas.

AR Committee members present at the meeting were: Mr. Shepherd (Virginia) and Ms. Connell (Illinois), co-chairs; Bernadine Adams (Louisiana); Ned Chester (Maine); Bob Mardis (Indiana); Ken Moore (Kansas); and Glenn Quinney (New Hampshire).

### **Subcommittee Reports**

Mr. Schmidt then asked for subcommittee reports.

**Legal Affairs Subcommittee:** Co-chair Mike Mayer read the following recommendations from the subcommittee:

- **Recommendation 1:** The subcommittee recommended that FACJJ ask OJJDP to amend the FACJJ bylaws to open subcommittee meetings to anyone attending an FACJJ meeting, absent any statutory requirement that the meetings be closed. This would allow FACJJ members to have other individuals from their states attend the meetings, which currently are closed. In response to a question from the floor, Mr. Mayer said the subcommittees would have the option of closing a meeting when deemed necessary. The motion carried.
- **Recommendation 2:** The subcommittee recommended that FACJJ ask OJJDP to establish an “emergency response team” comprised of the FACJJ Chair, Vice Chair, Chairs of the four standing subcommittees, and the DFO to respond to critical emerging issues in a timely manner. The group would meet by conference call. During discussion, Mr. Mayer said meeting only two times a year does not give FACJJ the ability to address issues that may arise on an emergency basis. It was suggested the group be called an Executive Committee and that the new committee send minutes of any conference calls to the entire FACJJ. In response to a question from the floor, Mr. Mayer and Mr. Schmidt both stressed that the Executive Committee would not make any decisions or take a stand on any issue without first notifying the full FACJJ by e-mail. The motion carried.
- **Recommendation 3:** Invoking chair’s privilege, Mr. Mayer raised an issue that was not discussed in the subcommittee meeting but had been addressed in earlier subcommittee meetings. He recommended that FACJJ ask OJJDP to amend the bylaws to allow a current FACJJ member to serve until the governor of his/her state nominates a new member to the advisory council. This change would ensure

continuous representation by all the states and territories on the FACJJ, especially those states in which the governor does not nominate a new member in a timely manner. The motion carried.

In response to a question from Mr. Shepherd, Mr. Mayer agreed that the three recommendations should be added to the 2005 Annual Report to the OJJDP Administrator.

- **Recommendation 4:** The subcommittee recommended that the FACJJ instruct Mr. Schmidt to send a letter to Mr. Flores expressing in essence the same issues and concerns contained in the proposed FACJJ Resolution on Federal Gang Legislation, with an additional discussion of the impact the proposed gang legislation would have on DMC. The letter should ask Mr. Flores to let each member of Congress know of FACJJ's concern regarding this issue. During discussion, Mr. Mayer said the letter should express the FACJJ's ongoing and continued concern regarding the lack of judicial involvement in both the certification process and the sentencing options that are available. The letter should also stress FACJJ's belief that the proposed gang legislation will have a disproportionate impact on minority communities and appears to be contrary to the current administration's emphasis on dealing with DMC. Mr. Mayer said the Legal Affairs Committee engaged in spirited debate about this issue.

FACJJ members also had a spirited discussion about the issue. Several members expressed concern about not having had time to study the bill and the resolution nor to discuss it with their governors and SAGs. (Mr. Shepherd, author of the resolution, explained that the House version of the bill was not passed until May 11, less than a week before the FACJJ meeting.) Other members noted the need to take a stand and to send a message from FACJJ to Congress pointing out the flaws in the legislation. Much of the discussion centered on whether to call the message a resolution or a recommendation.

Mr. Shepherd proposed a substitute motion that the FACJJ adopt the original FACJJ resolution (e-mailed to members on Saturday, May 14, 2005, and distributed at the beginning of the FACJJ meeting on May 17), subject to any amendments. The motion was seconded. Mr. Shepherd agreed to call the document a "recommendation" rather than a "resolution." The substitute motion carried, with FACJJ members from Alabama, Florida, Georgia, New Jersey, and New York on record as voting no.

The following participated in the Legal Affairs subcommittee meeting: Mike Mayer (Minnesota), co-chair; Tim Brandau (Delaware); Juan Casillas (Puerto Rico); Cindy Durham (Tennessee); Mark Johnson (North Carolina); Jo Patterson (District of Columbia); Adam Poppell (Georgia); and George Yefchak (New Jersey). Mr. Poppell and Mr. Brandau are new to the committee. Also present were Mr. Shepherd (AR Committee Co-Chair); Mr. Schmidt (FACJJ Chair); and Chyrl Andrews, OJJDP.

**Planning Subcommittee:** Co-Chair Harry Davis gave the following report:

- **Annual Survey:** Based on an earlier discussion with the AR Committee, which uses responses from the annual survey when preparing its reports, the Planning Committee suggested adding an additional question to the existing five-question survey. The new question would list categories of concern and issues and ask the states to rank them in order of importance. FACJJ members should make an extra effort to involve their juvenile justice specialists in the process of soliciting feedback so FACJJ could receive more information from more states. The Planning Committee feels the survey should be distributed at least 6 months before the information is needed to help guarantee that every state's SAG has an opportunity to receive the survey and have at least one quarterly meeting before the responses are due back. Because the AR Committee meets in February to plan each year's report, the survey needs to go out in August.
- **Annual Meetings.** The fall meeting will be held in San Antonio, Texas, October 24–25, 2005.

The Planning Committee also made the following recommendations:

- **Recommendation 1:** The Planning Committee recommends to the FACJJ that the 2006 spring meeting be held in Washington, D.C., adjacent to the Coalition for Juvenile Justice meeting. The motion carried.
- **Recommendation 2:** The Planning Committee recommends, at least for calendar year 2006, that the annual meetings do not include an additional day of training. (The training could be added back to later meetings). Discussion: At the December 2004 meeting, FACJJ passed the Planning Committee's recommendation that ½ day be added to the annual meetings as a training day. However, Mr. Davis said the additional time involved in this effort is putting pressure on members of the Planning Committee. Adding an additional day of travel also is a hardship on some. In the discussion that followed, Ms. Connell said one of the reasons for providing training is to help educate FACJJ members about issues (such as tribal pass-through funds) about which they may be making recommendations to OJJDP. Others said providing training allows them to attend FACJJ meetings without having to use personal vacation days. The motion to eliminate the ½ day of training was defeated by a show of hands. (A request for a recount by Co-Chair Davis was denied by the FACJJ chair.)

The following participated in the subcommittee meeting: Harry Davis (South Carolina) and Billy Wasson (Oregon), co-chairs; Hasan Davis (Kentucky); Chris Duenas (Guam); Daniel Elby (Pennsylvania); Mike Elmendorf (New York); John Frentheway (Wyoming); Sergio Hernandez (Washington); James Kirk (Maryland); Phyllis Stewart (West Virginia); Tom Mullen (Ohio); Dan Prince (Nevada); Barbara Tyndall (Alaska); Linda Uehara (Hawaii); and Robin Delany-Shabazz, OJJDP/DFO.

**Grants Subcommittee:** Robin Jenkins, who was asked to chair the subcommittee in the absence of both committee cochairs, gave the following report:

Although the recommendations in the annual reports were voted on and approved earlier by FACJJ, the Grants Committee had considerable discussions about the recommendations regarding the Title V and Juvenile Delinquency Prevention Block Grant programs. The subcommittee suggested refining the wording of some of the recommendations:

- **Recommendation 1:** The Grants Committee recommends that the total amount appropriated by Congress for the Title V program should not be less than \$37.5 million and that this amount shall be distributed to the states through a formula grant process to fund prevention programs. During discussion, it was stated that requesting that the Title V program be funded at the previous high of \$95 million (as the current annual report recommendation reads) is misleading because of the number of earmarks that came out of that amount in previous years.
- **Recommendation 2:** The Grants Committee recommends that FACJJ support a recommendation that asks Congress to fully fund the Juvenile Delinquency Prevention Block Grant Program at the level that was noted in the original authorization. During discussion, it was stated that this program was authorized but never funded by Congress. The Grants Committee believes Congress should allocate the resources it originally intended this program to have and that recommendation language in the FACJJ annual report should not compare the funding level of this program to that of the Title V program.
- **Recommendation 3:** The Grants Committee recommends that FACJJ ask Congress to reauthorize the Juvenile Accountability Block Grant (JABG) program at the original level of funding. During discussion, Mr. Schmidt noted that the JABG program needs to be reauthorized and urged members to let their legislators know how important this program is.

All three recommendations passed.

The following participated in the subcommittee meeting: Robin Jenkins (North Carolina), Robert Evans (Florida), Joe Thomas (Alabama), Derrick Johnson (Arizona), Alfred Martin (Mississippi), Scott Mosher (Idaho), Dick Smith (Vermont), Jerry Walsh (Arkansas), and Greg Thompson, OJJDP.

The subcommittee reports concluded the business portion of the FACJJ meeting.

### **Training Presentations**

After a break, the training portion of the meeting began. Anita Perry, Victim Witness Coordinator for the U.S. Attorney's Office, District of New Mexico, gave a brief overview of the services provided to victims and witnesses of cases being prosecuted by the U.S. Attorney's office. Most of the individuals the office helps are involved in violent

crimes committed on Native American land in New Mexico. Almost half of these are Native American children of sexual abuse and child neglect cases that require cultural sensitivity. The victim witness program helps ensure that victims and witnesses, particularly child victims, are offered emotional care, comfort, and guidance throughout their interaction with the Federal judicial system.

Mr. Schmidt adjourned the meeting after Ms. Perry's presentation.

### **Working Dinner**

FACJJ members then met for a working dinner at the Indian Pueblo Cultural Center in Albuquerque. The program included traditional Native American dancing and food. Dr. Sam Deloria, director of the American Indian Law Center in Albuquerque, discussed full faith and credit, a constitutional provision that requires federal and state governments to recognize tribal governments. However, for the full faith and credit clause to apply to Tribal Court orders, thus allowing Indian children to fully access state resources, states must pass enabling legislation and enter into intergovernmental agreements. States and Tribes have been hesitant to do so. Dr. Deloria talked about the history of OJJDP's involvement in tribal juvenile justice issues, the history of tribal participation in the federal domestic assistance program delivery systems, and other special issues relating to tribal governments. Dr. Deloria also talked about the history of OJJDP's involvement in tribal juvenile justice issues, the history of tribal participation in the Federal domestic assistance program delivery systems, and other special issues relating to tribal governments. Four students from the Santa Fe Indian School (a boarding school) discussed substance abuse in Native American communities and the difficulty Native American students have in balancing their cultural traditions with the need for higher education.

### **May 18, 2005**

Mr. Schmidt called the meeting to order and asked Mr. Samuels to introduce members of the Federal Resources Panel. The morning's presentations were planned in response to FACJJ's interest in learning about juvenile justice issues in Indian Country.

### **Federal Resources Panel**

U.S. Attorney David Iglesias, noting there is no one-size-fits-all approach when it comes to juvenile justice, discussed two youth prevention programs sponsored by his office. Project Sentry is a gun violence prevention program aimed at junior and high school youth. Mr. Iglesias, his staff, and paramedics visit schools and discuss gun crimes and the penalties for them and show the students what a gunshot wound looks like. His office has also provided training about the program to tribal law enforcement officials. The U.S. Attorney's Office, in partnership with the National Guard, also sponsors Camp Defy, a program for at-risk youth who live in neighborhoods participating in the Weed and Seed Program. (Weed and Seed is a Federal program that aims to prevent, control, and reduce crime in targeted high-crime neighborhoods.) To learn about youth prevention activities taking place in their districts, Mr. Iglesias suggested FACJJ members contact the law enforcement coordinator in their U.S. Attorney's Office.

Daniel Breuninger, special agent in charge of the District 4 Bureau of Indian Affairs (BIA) Law Enforcement Services, discussed law enforcement in Indian Country. He said the crimes that most occupy police on Indian land are directly related to drug and alcohol abuse and gang activity. Native American communities struggle with a shortage of detention facilities and bed space for offenders. Adult and juvenile offenders are often held in the same facility. There is also a shortage of police officers. Approximately 2,300 BIA law enforcement officers serve a population of about 2 million. To put this in perspective, Mr. Breuninger said one reservation of 2.3 million acres has 12 police officers to serve 8,000 residents. Mr. Breuninger concluded that the continued reduction of resources to combat and prevent crime, particularly among youth in Indian Country, can only mean the worst is yet to come.

James Toya, director of the Albuquerque Area Indian Health Services (IHS), discussed the Federal health care system for Native Americans. The program offers many youth services, including Headstart screening and other early childhood programs, teen pregnancy education, and school-based health initiatives. IHS works closely with tribal leaders on everything from staff hiring to policy to budget decisions. Mr. Toya also discussed the issue of cultural competency, which he said is not something that can be put into a single policy. Cultural and religious beliefs and acceptance of certain kinds of health concepts differ among tribes, so IHS facilities have to address cultural competency from a local perspective.

### **OJJDP Tribal Training and Technical Assistance**

Laura Ansera, program manager for OJJDP's Tribal Youth Program (TYP), provided an overview of the issues facing Indian tribes and OJJDP programs and training and technical assistance (T&TA) available to tribes. She was joined by Ray Perales from the Native American Alliance Foundation of Albuquerque, which provides tribal T&TA for OJJDP. They discussed the lack of resources to address the many problems facing Indian tribes; the differences between the American and tribal justice systems; risk factors for Native American youth; alcoholism; rising gang problems; and geographic isolation of tribes. Ms. Ansera also referenced a July 2003 report from the U.S. Commission on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* ([www.usccr.gov/pub/nao703/nao204.pdf](http://www.usccr.gov/pub/nao703/nao204.pdf)).

Mr. Perales discussed the rising trend in meth use in Indian Country. The drug is easily made from inexpensive ingredients. Meth labs are extremely toxic and highly portable, making them difficult to track down and clean up. He discussed the characteristics of a meth user, the environmental impact of meth, and the destructive nature of this drug. Ms. Ansera stressed that meth needs to be included in alcohol and drug abuse prevention programs.

### **Community-Based Programs**

The final panel discussed community-based programs in Indian Country. Bonnie Vallo, coordinator of the Albuquerque Eastside Weed and Seed program, introduced the speakers.

Mark Dyea, an adult probation officer with the Pueblo of Laguna, New Mexico, works with a youth diversion program designed to keep first-time and nonviolent offenders out of the court system. The 8-month program is designed for juveniles 13-17. The program requires the juveniles and their parents to attend a 6- week session that meets once a week. The sessions stress the need for communication between child and parent to help them address issues as they arise and lead into discussions about other issues, such as domestic violence, and drug and alcohol use. If offenders complete the diversion program, their record is expunged; if they fail to complete program or get rearrested, the diversion program is revoked and the original charges reinstated. Mr. Dyea said the program has an 87 percent success rate.

Heather Townsend, owner and CEO of All Native Alliance-Teaching Voices, LLC of Albuquerque, spoke of her organization's work, which focuses on truancy prevention and the value of education. She works primarily with students and families, stressing parenting skills and the value of family time. Her goal is to prioritize family before a juvenile's actions lead to court sanctions.

The Honorable Amy Lovell, chief judge of the Pueblo of Zia, New Mexico, oversees the pueblo's Healing to Wellness Court Initiative, which is a tribal version of a drug court. These courts use a nonadversarial, community-based system to treat and heal members of the tribal community who abuse alcohol and other drugs and who break tribal laws. Ms. Lovell said effective culturally competent programs incorporate traditional lifestyles, beliefs, and customs; encourage strong cultural identity for offenders; incorporate traditional ways of interaction, working, and healing; and provide tools individuals need to survive and succeed in an urban culture and environment. She also discussed cognitive modality behavior, which takes offenders back to moral reasoning, and social responsibility training.

### **Closing**

After a few closing remarks, Mr. Schmidt adjourned the meeting. (The next meeting will be October 24–25, 2005, in San Antonio, Texas.)