

# Meeting of the Federal Advisory Committee on Juvenile Justice

Monday-Tuesday, September 29-30, 2016

United States Department of Justice, Office of Justice Programs  
Office of Juvenile Justice and Delinquency Prevention  
810 Seventh Street, NW, Third Floor Main Conference Room, Washington, DC 20531

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## Summary

The Federal Advisory Committee on Juvenile Justice (FACJJ) held its annual meeting September 29-30, 2016. The meeting was hosted by the US Department of Justice (DOJ), Office of Juvenile Justice and Delinquency Prevention (OJJDP). FACJJ members participated, and members of the public observed.

Jeff Slowikowski, *Designated Federal Official*, provided staff support for the meeting. Eileen Garry, *Deputy Administrator, OJJDP*, and Chyrl Jones, *Deputy Administrator, OJJDP* offered welcome remarks, and members introduced themselves and described their state SAG activities.

Luis C. deBaca, *Director, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), OJP* and SMART Office staff members presented an overview of what is being done around juvenile registration, and they engaged in a discussion with the FACJJ on the topic.

Tina Borner, *Senior Compliance Analyst, OJJDP, Core Protections Division*, provided an update on OJJDP's activity around Disproportionate Minority Contact (DMC).

Jim Moeser led a discussion around and vote on proposed new bylaws and implementation timeframe for the FACJJ. Membership terms were clarified.

Current subcommittees provided updates and, where applicable, recommendations.

Judge Timberlake led an open discussion around FACJJ goals and subcommittee membership for the upcoming year. Committee Chairs were identified, and members indicated their subcommittee membership(s).

Robert L. Listenbee, *Administrator, OJJDP* offered his appreciation of outgoing and new FACJJ members. He then provided an update on the office's goals and activities, and he engaged in discussion with the FACJJ.

Chair and Vice-Chair elections were held, and each subcommittee reported on its planned focus, activities, meeting schedule, identified support, and membership. General subcommittee subject were discussed.

Upcoming meeting planning and logistics were discussed.

## DAY 1 – WELCOME, OPENING REMARKS, INTRODUCTIONS

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**Jeff Slowikowski**, *Designated Federal Official (DFO), FACJJ and Senior Policy Advisor, Office of Juvenile Justice and Delinquency Prevention (OJJDP), US Department of Justice (DOJ)*, welcomed everyone to the annual meeting of the FACJJ and called it to order. He reviewed logistics and noted that the meeting would be webcast and open to the public for observation. Mr. Slowikowski added that members of the public would be able to submit comments after the meeting to him at [Jeff.Slowikowski@usdoj.gov](mailto:Jeff.Slowikowski@usdoj.gov). He pointed out that every member in attendance had received hard-copy Chair and Vice-Chair nominating forms, to be submitted to him or to Melissa Kanaya, *Senior Program Manager, Concentration of Federal Efforts Program, OJJDP*, at any time during Day 1 of the annual meeting. The following day would provide the opportunity to vote to fill those positions.

**Eileen Garry**, *Deputy Administrator, OJJDP*, offered welcoming remarks. She thanked FACJJ members for their thoughtful work to date – including consistently delivering well-considered and thoughtful recommendations – and acknowledged their commitment. She expressed gratitude to Judge George Timberlake for his leadership of the FACJJ over the past year, in particular for developing this meeting’s robust and productive agenda.

Ms. Garry pointed out that the FACJJ initiated a process to recruit members to replace outgoing ones on the committee. Applications were submitted by state advisory group (SAG) members from across the country; new members – coming from diverse backgrounds that include the judiciary, probation, prosecution, public defense, state juvenile justice agencies, academia, youth service and advocacy – were selected representing 13 states. Ms. Garry expressed particular excitement in welcoming two tribal members filling vacancies specifically intended for Native American SAG members. She offered her congratulations to all newly appointed members and thanked them for accepting the call to serve on the FACJJ.

Ms. Garry introduced herself, sharing that she began working for OJJDP in 1978 and that she had supported the Office of Justice Programs (OJP) for 18 years as senior leader on the National Criminal Justice service contract. She worked with survivors and beneficiaries of 9/11 for two years, leading the Public Safety Officer Benefits Program. Ms. Garry then reorganized the Bureau of Justice Assistance (BJA) and handled emergency operations after Hurricanes Katrina and Rita, helping local authorities rebuild their criminal and juvenile justice systems using federal aid. In 2010, she began three years as deputy executive director of the Indian Law and Order Commission, until its completion. After months of working with both BJA and OJJDP, she now has returned to OJJDP full time, with goals that include customer service and relationship building. Ms. Garry looks forward to getting to know the members of the FACJJ and is excited that Juvenile Justice and Delinquency Prevention Act (JJDP) reauthorization is on the table. She noted the dedicated, competent, capable, professional OJJDP staff, and she remarked that she looks forward to continuing to do great things together.

**Chyrl Jones**, *Deputy Administrator, OJJDP*, has been with the office for almost 20 years. For the first 15 of those, she was involved with the Title II Formula Grants Program, working with designated state agencies and SAGs across the country. She shared that OJJDP staff are renewing their energy and focus to support SAGs, and she pointed out the leadership of OJJDP’s

State and Community Development Division team – Robin Delany-Shabazz and Jennifer Yeh – and explained they and their staff would be visiting states over the next two years to meet with the SAGs and learn how OJJDP can support their efforts. Ms. Jones will do her best to visit the states as well. She thanked the FACJJ members for their commitment and passion.

**Judge George Timberlake**, *FACJJ Chair*, noted that the FACJJ is part of the good work of OJJDP. The Committee’s work is important, and the leadership welcomes the efforts of both veteran and new members, regardless of position and availability. He commented on the diversity of the FACJJ membership as to age, racial and ethnic background, and rural/urban background, noting that the FACJJ’s and OJJDP’s work affects people of different backgrounds and positions. The diversity of this group and an awareness of the country’s diversity will yield better results from this committee’s considerations.

Judge Timberlake noted that the FACJJ subcommittees have accomplished an extraordinary amount of work and have developed numerous recommendations, and he thanked the subcommittee chairs and members for their work. He explained that it is in the subcommittees where the work off the FACJJ happens – including with the input of those outside the FACJJ membership – and he urged members to involve themselves in that work. He acknowledged Jim Moeser and Dalene Dutton, past chairs of the FACJJ, for setting up the current subcommittee structure.

Judge Timberlake pointed out that subcommittees have worked hard and have developed recommendations that, in their estimation, are the best for the country as a whole. FACJJ members’ comments and input on those recommendations are welcomed and encouraged. He invited members to participate in the current subcommittees or in recommending alternative subject matter subcommittees.

Judge Timberlake also encouraged subcommittees to bring recommendations at any time and not to wait for the annual meeting to do so, building the work over the course of the year.

Judge Timberlake asked members to introduce themselves and to describe their state SAG activities. He noted the importance of knowing about and respecting each other in order to meaningfully collaborate.

**Starcia Ague** is the Vice-Chair of the FACJJ and Co-Chair of the Youth Committee of the Washington State SAG. She was incarcerated from ages 15 to 21, and she is the only juvenile ever in the State of Washington to receive a pardon from the governor. She has worked for the past seven years to help youth share their adverse experiences to inform policy, legislators, the SAG, and other stakeholders. She shared two activities of the SAG:

1. It is focusing money and planning to propose legislation to lessen the number of jailed status offenders, which is currently higher than in any other state.
2. It is working to propose legislation to ensure that every juvenile has a declination hearing before being automatically transferred to the adult court.

**Ashley Beall** is a Juvenile Public Defender in North Dakota and serves as an Adjunct Professor at her local college, where she teaches juvenile justice and introduction to criminal law. She is a member of the state's SAG, which has identified areas of reform, including school diversion/school-to-prison pipeline, alternatives to detention, community-based programming, and minority over-representation.

**Tim Brurud** is Director of Boys & Girls Club of Hi-Line in Montana. He has been a member of the state's SAG for approximately seven years and currently is serving as its Chair. The SAG is focusing on data-sharing among law enforcement, detention, and tribal communities to inform decisions for youth. Methamphetamine (meth) and heroin abuse are causing numerous removals of youth from their homes. Mental health is another big issue. The state is large, and the population is small; therefore, the facilities are far-flung. The main thrust of the SAG's work is on prevention, with the goal of putting evidence-based practices (EBPs) in place.

**Judge Vernon Daniels** sits on the Separate Juvenile Court of Douglas County in Omaha, Nebraska and is an Adjunct Faculty Member of the Creighton University School of Law, where he teaches a course on juvenile justice. He co-chairs the Juvenile Detention Alternatives Initiative (JDAI) in Douglas County, and he mentors. One improvement that has been made in Nebraska is that, with the exception of serious offenses, charging decisions now start off in the juvenile division. Civil citations are now used for those under 17, and this has been helpful. The county is using data to begin to make informed decisions and is working toward EBPs in all areas of juvenile court. Other ongoing efforts focus on disproportionate confinement, family engagement, and the runaway population.

**Judge Amy Davenport** is a retired superior court judge (1990-2014) from Vermont, where she spent most of her time in the family and criminal divisions. She is a member of the Vermont SAG, which has been involved in numerous activities, two of which are:

1. Working to successfully pass legislation that ensures that all petitions involving misdemeanors and felonies, besides those of the most horrendous crimes, must begin in the family division up through age 18. This will happen through a phased-in process. Also, the SAG's oversight committee on criminal justice is exploring whether the age of jurisdiction for the family division should be increased to 25.
2. Implementing, as one of four states, the Youth Thrive research-oriented program developed by the Center for Social Policy and Justice. The program will provide training for everyone working with youth, whether employed by the state or by a community organization. The SAG has been at the forefront of this activity.

**Wendy Henderson** is a member of the Wisconsin Department of Children and Families and has worked for 20 years in the area of juvenile justice reform. She directs the four-year-old Bureau of Youth Services (BYS), which oversees the transition of youth leaving foster care and administers runaway youth and homeless youth prevention programs. It has recently added to its portfolio supervision of the county-run juvenile justice system. The BYS is currently gathering stakeholder input around standards of practice for the Wisconsin juvenile justice system, creating a data system, implementing trainings, and identifying desired outcomes. Ms. Henderson is a member of the state's SAG.

**Lisa Jacobs** is a faculty member of Loyola University Chicago Law School and manages its Center for Criminal Justice research policy and practice. She is the Vice-Chair of the Illinois SAG, which has grappled with the fact that the federal allocation will never fully fund the services that youth and families need in any state; it has focused on structural and boundary changes the SAG could influence and support through its work. The SAG has studied a number of issues exhaustively, including the commitment of youth to state care and state prisons and issues around youth in the system for sex offenses. Currently, the SAG is focusing on expungement and the impact of juvenile court records on youth and their lifelong opportunities. Ms. Jacobs noted that there is much work to be done on racial and ethnic disparities issues.

**Tony Jones** is Chief of Police of the Gainesville (Florida) Police Department. He noted that an open discussion began four years ago in the State of Florida about race and police. Discussion led to collecting and reviewing data, which showed the existence of an issue that remains today. The state developed a DMC curriculum, and it is educating many law enforcement agencies; Chief Jones is implementing policy that uses the information provided. He emphasized the importance of data to back up claims that an issue exists.

**Jane Kallal** has been involved in children's system reform for 17 years and serves as Executive Director of the Family Involvement Center in Phoenix, Arizona. She has been a member of the Arizona SAG for eight years, ensuring that the voices of parents, caregivers, and young adults are heard. Child welfare, juvenile justice, and behavioral health systems in the state have worked together in various capacities. Ms. Kallal's work focuses on creating more prevention services and involving parents earlier in the process to prevent youth from becoming involved in the system. Parents who have navigated the children's system are now advising committees or are working in systems across various levels in the state. She got into this line of work because her own daughter went through the system, and the process was overwhelming.

**Mary Beth Kelly** is an attorney in private practice and a former Justice on the Michigan Supreme Court. Most of her 16 years of judiciary work were devoted to juvenile justice efforts. She has taught classes on children and the law at University of Detroit Mercy, and she chairs the Michigan Committee on Juvenile Justice, which serves as the SAG. Most of the SAG's efforts are around raising the age for juveniles to include 17 year olds. Legislation has been passed in one chamber, and the SAG is hoping to get the bill passed fully. Data is a huge issue, and the SAG created a statewide data lab. Recently, it created a data lab with the University of Michigan and is following system-involved youth.

**Kimberly Larson** is a member of the Massachusetts SAG. An academic, she was a FACJJ alternate member for two years. Her primary work is in juvenile justice and policy research, including expungement, waiver of counsel, juvenile competence to stand trial, and protections of due process rights.

**ViEve Martin-Kohrs** has worked in local probation for 35 years and serves as Director of Resource Development for the Calcasieu Parish Office of Juvenile Justice Services in Louisiana. She serves as DMC Chair for the Louisiana SAG, which is in year three of the first-ever statewide assessment. The state just raised the age for juvenile jurisdiction to 18.

**Cheryl Massaro** is the Director of the Flagler County (Florida) Youth Center and Washington Carver Community Center; both are located in an African-American populated area of the county. She has been a member of the Florida SAG for four years, is the DMC Chair, and has worked very closely with outgoing FACJJ member Tony Jones. Important activities include the SAG's work with the state's System of Excellence that aims to provide all youth the right treatment all the time; one of the largest components is prevention, and the SAG is studying ways to keep youth from getting deeply into the system and to get them out as early as possible. Florida is promoting its civil citation program, which is cutting arrest records and keeping kids out of the system. It is a very data-driven state, and current data is available to everyone. The SAG has co-developed a curriculum and is pushing it out to law enforcement, and now it is receiving requests to supply it to college students.

**Jim Moeser** is Deputy Director of the advocacy organization Wisconsin Council on Children and Families, which has been working most recently on compliance. Historically, the group has promoted a variety of system reforms and movement toward EBPs. Mr. Moeser is Chair of the Wisconsin SAG, which currently is focusing on advocacy for structural changes and reforms related to closing the state's last remaining correctional institution and moving toward community-based programs.

**Greg Parks** is a clinical and forensic psychologist who performs psychological evaluations for the courts, and he is a Professor of Psychology at Oklahoma City Community College. He has recently focused on drafting juvenile competency legislation; the team with which he worked is working to implement it. At the community college, he works with first-generation, at-risk students, those in foster care, and those aging out of the foster care system. He believes that community colleges are likely an underutilized resource for youth transitioning out of the juvenile justice system. Dr. Parks is a member of the Oklahoma SAG, and the group has been targeting its grantmaking to domains where it has identified needs that can be addressed by EBPs, specifically in family engagement, parenting interventions, and better use of data. Tribal involvement and DMC have been other areas of increased effort.

**Sasha Pellerin** is a Project Director for Hacia la Universidad in Albuquerque, New Mexico, a college-readiness program for first-generation Latino students that serves as a diversion program. She has been a member of the New Mexico SAG for 10 years and is Chair of its Grants Subcommittee. Funding has been flat due to the state procurement process. Her county has been working with the Annie E. Casey Foundation to take its model to scale and use it as a model for some of the nation's other programs.

**Christine Perra Rapillo** is Director of Delinquency Defense and Child Protection for the Public Defender's Office in Connecticut, where she manages lawyers who represent youth and families. She is a member of her SAG, which has been deeply involved in the appointed state legislative Juvenile Justice Policy Oversight Committee, working to reform juvenile justice in the areas of transfers, procedures, reduction of incarceration, increased diversion, and decreased recidivism. The SAG is soon to embark on its fourth disproportionate minority contact (DMC) study in 15 years – in which police departments and the court system are examined to analyze progress – and statewide trainings of staff, including school-based law enforcement, on school climate and progressive discipline.

**Dave Rosenthal** is Senior Assistant Attorney General in the Office of the Attorney General for the District of Columbia and serves on the Washington, DC SAG. He noted the limited ability of the SAG to affect policy, given DC's non-state status and Congressional oversight. He mentioned some progress, including soon-to-be-passed legislation on mandatory arrests in domestic violence situations. DC has expanded diversion programs and has moved to a pre-arrest diversion. The SAG was very active in developing a domestic violence approach that can be added to the list of diversion programs. Data is an area of focus, as are goals around trauma-informed care and EBPs.

**Melanie Shapiro** is Chief Attorney, Baltimore City (Maryland) Juvenile Office of the Public Defender. She is involved in legislative efforts of the office, including ending the direct file for 17 and 18 year olds, as 33 offenses under which these youth still automatically are charged as adults. Issues around shackling and developing a safe harbor law for victims of human trafficking are focuses as well. The Maryland SAG is deeply involved with racial and ethnic disparities, and Ms. Shapiro serves on that named subcommittee.

**Paula Smith** is a Juvenile Probation Officer of the Washoe Tribe of Nevada and California. She supervises four communities, is an on-call for one of the county detention centers at Lake Tahoe, and is a member of the Nevada SAG, where some of the biggest issues are DMC and treatment of sex offenders. She is also Advisory Board President of the statewide Native American Coalition, which serves 27 reservations around prevention and intervention, and with securing funds for drug and alcohol prevention programs.

**Penelope Spain** serves as a Court-Appointed Delinquency Attorney in District of Columbia Superior Court and is CEO of Open City Advocates (OCA), which provides intensive mentoring services through a practicum course Ms. Spain teaches at Georgetown University Law Center. OCA provides mentoring and legal representation to youth after they have been committed to the DC Department of Youth Rehabilitation Services. Recidivism rates have been cut by approximately 66% with the use of OCA's mentoring services. Ms. Spain has been a member of the Washington, DC SAG's Juvenile Justice Advisory Committee for the past three years, and she is the Chair of its Youth Committee.

**Tawny Spinelli** served as Assistant Director of the Tennessee Governor's Children's Cabinet, a collection of the six state child-serving departments, and is a former foster youth. She has been involved with the Tennessee SAG since college and just began graduate school at Northwestern University in Chicago. The Tennessee SAG is focused on DMC, decreasing status offenses, and bringing trauma-informed interventions to system-involved youth.

**Clarence Thomas** is the Director of the Eastern Shoshone (Tribal) Department of Juvenile Services on the Wind River Reservation in Wyoming. He is the tribal representative on the Wyoming SAG, which currently is working on data collection, on continued improvement in the state's juvenile justice systems, and on collaboration and communication with the tribes. It is examining the statutory authority of the SAG on juvenile justice, and it continues to focus on improving data collection in Wyoming.

**Judge Timberlake** is retired, and he serves as the chair of the Illinois SAG, called the Illinois Juvenile Justice Commission. He is involved in numerous organizations aimed at juvenile justice reform.

**Joe Vignati** is Deputy Commissioner of the Georgia Department of Juvenile Justice and is in charge of juvenile probation in 145 counties. All 159 counties in the state have intake, commitment, and reentry services. He is a member of the Georgia SAG, for which he served as Vice-Chair; he currently serves on the SAG's JDAI Committee and DMC Subcommittee, and he is Co-Chair of its Juvenile Justice Incentive Grant Program. The SAG is intimately involved in creating and sustaining juvenile reform. The state is posed to pilot a juvenile data exchange to inform decisions.

## **Roll Call**

### **Members**

George Timberlake/Illinois (Chair)  
Starcia Ague/Washington (Co-Chair)  
Ashley Beall/North Dakota  
Timothy Brurud/Montana  
Vernon Daniels/Nebraska  
Amy Davenport/Vermont  
Wendy Henderson/Wisconsin  
Jane Kallal/Arizona  
Lisa Jacobs/Illinois  
Tony Jones/Florida  
Mary Beth Kelly/Michigan  
Kimberly Larson/Massachusetts  
Andrew Longhi/District of Columbia (Youth) (LGBT Committee Report and Discussion only)  
ViEve Martin-Kohrs/Louisiana  
Cheryl Massaro/Florida  
James (Jim) Moeser/Wisconsin  
Gregory Parks/Oklahoma  
Sasha Pellerin/New Mexico  
Christine Perra Rapillo/Connecticut  
Dave Rosenthal/District of Columbia  
Melanie Shapiro/Maryland  
Paula Smith/Nevada (Tribal Member)  
Penelope Spain/District of Columbia  
Tawny Spinelli/Tennessee (Youth)  
Clarence Thomas/Wyoming (via phone)  
Joe Vignati/Georgia



## DAY 1 – MEETING WITH SMART OFFICE AND DISCUSSION ON SORNA

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*Luis C. deBaca, Director, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), OJP*

*Dawn Doran, Deputy Director, SMART*

*Scott Matson, Senior Policy Advisor, SMART*

*Lori McPherson, Senior Policy Advisor, SMART*

The members of the SMART Office introduced themselves, and Mr. deBaca provided an overview of the day's presentation, explaining that the SMART Office has both a policy aspect and a grants and programs aspect. Today's presentation would focus on both areas, although more heavily on the policy aspect of the office's work. The goal of the presentation was to give the FACJJ a complete picture of what is being done around juvenile registration at DOJ and what is happening across the country, and to clarify the federal requirements vis á vis states' ability to create local solutions.

### **Registration and Notification Systems**

No singular national registration system exists, but there are state, tribal, and territorial systems. The National Sex Offender Registry is a non-public, Federal Bureau of Investigations (FBI) list used to enable law enforcement to know people locations and offenses.

There is also the [National Sex Offender Public Website](#), known as NSOR, which is not a registry and has limited information reflecting the state, tribal, and territorial registration systems. It is what one would use to, for example, research one's neighborhood.

The Adam Walsh Act Protection and Safety Act of 2006 sought to standardize dozens of uncoordinated disparate systems, some dating back as far as the late 1940's. Concerns existed about people moving to other states (including for college education) or tribal lands without notification in order to avoid detection. The Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Act, established national standards and clear guidelines for registry with offense-based classification and uniformity of language. Offenders are arranged into tiers based on their offenses; this determines the length of time their names remain on the registry and the frequency of required check-ins. Failure to register is considered a criminal offense.

The SMART Office applies 14 core themes for its annual reviews to assess SORNA implementation by states, tribes, and territories. Mr. deBaca spoke to concerns about SORNA being an unfunded mandate, explaining that his office has granted almost \$100 million to states, territories, and tribes, \$41 million of that specifically to tribes setting up their own systems.

### **Juvenile Registration Before and After SORNA**

In 2006, 36 states already required certain adjudicated juveniles to register. Five states have passed legislation to require registration of adjudicated juveniles since SORNA was enacted.

Mr. deBaca provided NSOR data to show that the Adam Walsh Act is not responsible for an explosion in juvenile registrations. In fact, the number of annual new juvenile registrants has decreased since SORNA.

## **Population of Registered Juveniles**

Based on analysis, approximately 2,400 registrants currently are under age 18. About 35,000 of those registered were under 18 at the time of their conviction/adjudication. About 12,500 became adults before their first registration, approximately 15,000 registrants had committed an offense against a minor victim, and around 22,000 were under 18 when they registered. In very preliminary analysis, a small number (less than 500 total) are “Romeo and Juliet” scenarios – in which the juvenile offender is having a consensual sexual relationship with another minor. The data needs to be analyzed further, because the research indicates that there can be differentiation between abuse of peers and adults vs. abuse of younger children in terms of determining the best assessments, the most helpful treatment, and more. Much policy discussion assumes the strong prevalence of the “Romeo and Juliet” scenarios, so the data needs to be further analyzed to inform those conversations.

## **How Federal Law Treats Juveniles Differently**

Federal registration law treats juveniles differently, as it should. SORNA limits registration to juveniles who:

- Were 14 or older at the time of the offense; and
- Were adjudicated delinquent of an offense equivalent to or more severe than aggravated sexual abuse.

Federal law does not require lifetime registration for those under 18 at the time of the offense. One can petition for removal if s/he maintains a clean record for 25 years; by definition, the oldest person who is eligible for removal is 43 years old (18 + 25). Experts indicate that offending drops off dramatically in the mid-40s across the board.

SORNA defines “serious offenses” as those equivalent to 18 U.S.C. §2241(a) or (b), generally involving forcible penetration. Touching offenses of young children generally are not included.

Concerned it would otherwise capture consensual teen sexual activity, SORNA exempts “Romeo and Juliet” situations by specifically exempting “non-forcible” rape cases in which:

- Contact is otherwise consensual; and
- The victim is over 13 years of age, and the perpetrator is no more than four years older than the victim.

Some states still register such cases. In looking at the very small percentage of these cases in the preliminary data, the office is analyzing why more of them are on registries in certain states.

## **Impact of the 2011 Supplemental Guidelines**

The 2011 SORNA Supplemental Guidelines from the Attorney General granted jurisdictions discretion in whether to publicly post information about their juvenile registrants. A number of jurisdictions do not undertake public posting.

## **What Jurisdictions Are Doing**

### Prosecution of Juveniles Who Commit Sexual Offenses

There is still enough disparity among jurisdictions’ prosecution of juveniles who commit sexual offenses to lead to different outcomes for youth. Areas of disparity across jurisdictions, which all affect adjudication vs. conviction and other outcomes, include:

- Age of adult criminal responsibility
- Charging decisions
- Waiver/transfer (legislative, prosecutorial, or judicial)

### Juvenile Registration and Notification

Typically, if juveniles are transferred or waived, they generally are registered as adults. The registration requirements vary, even where available. Areas that differ include:

- Age at time of offense
- Offense for which adjudicated delinquent
- Mandatory vs. discretionary systems (automatic offense-based registration, then a risk assessment governs tier placement/supervision)

States generally require an adjudication of guilt or a conviction for a sex offense before registration can be ordered. Due process must be guaranteed, and elements of the crime must be found beyond a reasonable doubt. States have varying approaches to registration, including mandatory, discretionary, or a blend of the two. Other approaches that vary are:

- Duration: Offense vs. risk assessment
- Frequency: Offense vs. risk assessment
- Public posting: Mandatory/discretionary
- Opportunity for removal: Mandatory/discretionary

### States' Current Handling of Serious Sex Offenders

Twenty-six states mandate registration, and 11 states make registration discretionary. Three states operate a hybrid registration determination (nature of offense combined with certain other objective criteria), and 11 states do not register juveniles at all.

### **What Research Says About Juveniles Who Commit Sexual Assault**

The SMART Office is working to harness the power of social science to have positive policy-based outcomes. Several years ago, the office convened the Sex Offender Management Assessment and Planning Initiative (SOMAPI), an attempt to identify EBPs and gaps/needs of the field, and to provide guidance for adults and youth. Representatives of many areas of the field, including therapy and law enforcement, came together with the common goal of protecting the public from sex offenders and preventing sexual violence.

One of the findings of the group is that much more research is needed. That said, it was able to develop the following lists of juvenile and adult topics:

#### Juvenile Topics

Etiology/typologies  
 Risk assessment  
 Recidivism  
 Treatment effectiveness  
 Registration and notification

#### Adult Topics

Incidence and prevalence  
 Etiology

Typologies  
Risk assessment  
Recidivism  
Internet offending  
Treatment effectiveness  
Management strategies

SOMAPI revealed the following important distinctions between juveniles and adults:

- Juveniles and adults differ in their cognitive abilities, capacity for self-management and regulation, susceptibility to social and peer pressure, and other areas related to judgment and criminal intent.
- Risky behavior is more prevalent during adolescence than it is during preadolescence or adulthood.
- The ability to plan ahead, be aware of time, and anticipate future consequences significantly increases with age.

Mr. deBaca noted that the two biggest debunked myths in the field are:

- All people who commit sex crimes are incorrigible recidivists; and
- Everyone who offends as an adult is continuing a cycle that happened to them.

The sex offending in *some* adolescents represents a reenactment of their own sexual victimization. Others are exhibiting learned behavior modeled after what they observe at home. SOMAPI recommended individualized treatment and supervision strategies with this population, depending on the type of offense, the background of the offender, the victim involved, and more.

Recidivism is underreported, and very few studies have been performed in this area. These realities make it challenging to talk about. However, it appears that the recidivism rates for juveniles who commit sex offenses, while existent, are generally lower than those for adult offenders. Better assessment tools are needed for identifying kids who are more likely to reoffend, and to determine what they need; these are lacking for both sexual and non-sexual recidivism. Some studies indicate that the recidivism rate of youth who commit sexual offenses is higher than their non-sexual-offense counterparts, and some studies do not. With the science being unsettled, Mr. deBaca cautioned against recidivism being the metric on which everything is assessed, noting that recidivism is an important measure but does not tell the complete story. Measurement bias exists because recidivism simply shows that someone offended and got caught doing it. According to SOMAPI, just one of the six purposes of risk assessment is to determine recidivism.

#### Assessment

Action needs to be around risk assessment, as many tools are static and therefore do not work for children. The need exists for developing a dynamic assessment tool with protective factors.

#### Treatment

Modest treatment effects exist for both sexual and non-sexual juvenile offenders. Studies consistently have shown that sex offender treatment, particularly multisystemic and cognitive-behavioral approaches, works. A cost-benefit analysis of treatment demonstrates that tailored sex offender treatment programs for youth can provide a positive return on taxpayer investment.

Some states, including Washington and Colorado, have a large number of juvenile registrants but also provide a lot of treatment and support. It is important to study all of the states to learn what they are doing with registered youth and to determine the impact of registration.

### Impact of Registration

Very few studies exist on the impacts of registration, and more information is needed in this area, through both SMART Office research and input from the field. Therefore, it is difficult to draw conclusions. Available research has not isolated the impact of these policies from that of other interventions. We need to be looking at rigorous, independent impact assessments administered by neutral researchers.

### **2016 Supplemental Guideline**

In July, the Attorney General issued the 2016 Supplemental Guideline. The SMART Office is tasked with ensuring that jurisdictions are implementing SORNA each year. One of the 14 core thematic points it uses is juvenile registration, which has been a flashpoint in some states. The office will no longer only look for mandatory systems but is going to look also at holistic approaches that balance community safety and outcomes for juveniles in the system. It will take into account the goals of the juvenile justice system and research on youth with sexual behavior problems from SOMAPI and from the SMART/OJJDP-funded Youth with Sexual Behavior Problems (YSBP) program. The breakthrough of the guideline is the attempt to support and develop localized, tailored approaches in jurisdictions.

SORNA does not require:

- Residency restrictions
- All juveniles (only those over age 14 who are serious offenders)
- “Romeo and Juliet” or public urination cases
- Touching offenses
- Lifetime juvenile registration
- Public notification of adjudicated juveniles
- Offense-based mandatory juvenile systems

### **SMART Office Programs**

- SOMAPI and NASOM (Native American Sex Offender Management) at four sites around the United States
  - This looks like a reentry program of offenders into communities
- Campus Sexual Assault Prevention (with OJJDP)
  - Looking at offender behavior, protecting those on campus, proving prevention tools for potential offenders
- SORNA research (with the National Institute of Justice)
- Circles of Support and Accountability
- Juvenile Risk Assessment Tool with Dynamic and Protective Factors
- Juvenile Progress Scale
- Adult and Juvenile Treatment Standards

SMART is pushing the federal envelope to bring in research and EBPs to further improve outcomes for youth offenders, communities, and victims.

## **Discussion**

**Judge Timberlake** asked what research led to choosing 14 years old as the lowest age of registration.

Answer:

**Lori McPherson:** The juvenile regulations requirement was an addition to the standards, as there was no juvenile registration requirement under the Wetterling standards (Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act). I am not aware of a data- or research-driven reason for the age cut-off; however, we can speculate, as 14 is the “magic age” in many jurisdictions (i.e. for transfer). The legislative history does not inform on why that age was chosen, but it is in the statute until and unless Congress chooses to change it.

**Mr. deBaca:** Data from the Youth with Sexual Behavior Problems (YSBP) project out of Oklahoma shows that instances of children touching other children peak at ages 13-14.

**Judge Timberlake** asked who does research in this area.

Answer:

**Scott Matson:** For YSBP, the research is being done by the University of Oklahoma Health Science Center. For the risk assessment tool, the SMART Office co-funded research with the National Institute of Justice (NIJ), and the Urban Institute was the primary recipient of the award. For the Juvenile Treatment Progress Scale and the treatment standards research, those were competitive processes and awards are imminent.

**Mr. Vignati** commented that Georgia does not require mandatory juvenile registration and is surrounded by states with mandatory registration and mandatory website posting for juveniles. Youth who move to Georgia must be registered and on the adult registry website. This makes adequate education and placement of those youth far more difficult, and it makes it far harder to usher them into being productive adults. He asked what can be done to address that issue from a policy standpoint.

Answer:

**Mr. Matson:** The federal staff can stress discretionary options for other states but cannot demand that a state chooses one over the other. Disseminating research that shows what is effective is an important factor in swaying opinion and potentially affecting policy change.

**Ms. McPherson:** The goal is to distribute a document that gives a snapshot of how each state handles juvenile registration; this will make it easy to compare and contrast, so policy makers in those states can have conversations. For example, in Florida, a registrant cannot be removed even after death; this far exceeds SORNA requirements. The goal of publishing the current summary document is to begin to enable such conversations.

**Mr. Vignati** appreciates the opportunity to have ongoing dialogue around this issue. Public safety is important in Georgia; however, in this particular arena, officials feel that public safety is not best served by placing juveniles on the registry.

**Mr. Matson:** To clarify, there is no requirement in SORNA that Georgia must publicly post youth coming from other states. The state needs to make that decision.

**Judge Davenport** remarked that Vermont also does not register juveniles. Referring to the research slide that highlighted etiology, risk assessment, recidivism, and treatment, she expressed appreciation for better risk assessment tools in order to make more accurate predictions. She noted that the SMART Office staff had said that the low rate of recidivism may or may not be accurate and had downplayed the importance of that measurement. She added that registration exists because of the public's belief in the likelihood a registered offender might offend again. She wondered if the combination of a low recidivism rate combined with poor risk assessment tools that cannot predict reoffending is an argument against registering juveniles.

Answer:

**Mr. deBaca:** I think it is about viewing recidivism rates in the context of the harm perceived by the public. We see the percentage chance of any one offender re-offending is not as high as the public thinks. But the impact on the victim of a sexual offense, on families, and on communities, and someone with a 13% chance of recidivism vs. a 20% chance noticeably affects people. As far as what is an acceptable percentage of recidivism when the impact on people is higher is one of the reasons people still want to know as it relates to one's family, awareness on the part of the school system and the local sheriff's office, and more. We have seen cases in which local law enforcement does not know people committed heinous sexual offenses when they were under age 18 and therefore do not know to investigate the person as a potential perpetrator. In a recent, although not juvenile, situation in North Carolina, law enforcement was able to narrow down its list of possible perpetrators and rescue a six-year-old kidnapped girl before she was killed, because the registry included someone living in the same neighborhood who had kidnapped a six-year-old girl years 20 years prior. The SMART Office studies recidivism in the context of whether the information is available to school administrators, law enforcement, and others to determine whether someone should be listed on a non-public registry available for law enforcement purposes.

**Dawn Doran:** The 2011 Supplemental Guideline involved a lot of consideration around the need to ensure that serious sex offenders are registered with law enforcement. The guideline specifically avoided a requirement for public posting.

**Judge Daniels** asked for clarification around the use of the term "adjudicated", asking if it was being used as a juvenile court prosecution, a criminal court prosecution, or a blending of the two.

Answer:

**Ms. McPherson:** The way that SORNA writes it and the way it is spelled out in the summary we provided to the FACJJ, adjudications are limited to juvenile court proceedings. The use of the word "convicted" is used for adult court.

**Judge Daniels** noted that some jurisdictions are purely rehabilitative in nature and do not have treatment facilities for high-risk youth. He asked if an offender whom the judge must send to a jurisdiction for treatment in a state with a registration requirement then would have to register in that jurisdiction, which may be more punitively structured.

Answer:

**Ms. McPherson:** Whether someone would be required to register would depend on how an individual state defines residency (inpatient treatment, outpatient treatment, or corrections) for purposes of triggering registration. The SMART Office did not get into that level of specificity for states.

**Judge Timberlake** pointed out that one thing prompted by the registration requirements in some states and not necessarily dictated by SORNA is a requirement that a minor notify the school system, among other institutions. Studies in Illinois have demonstrated that registration requirements are negative to future positive behavior. He asked if we get down to looking at the likelihood of future sex crimes in schools and remarked that we are looking at positive factors that may lift that kid to a more lawful state of being.

Answer:

**Ms. McPherson:** One issue we are just starting to find is that schools are getting sued by subsequent victims of convicted sex offenders about whom the school knew and did not take protective action to protect the student body. There is a civil liability angle for the schools to ensure that they put the appropriate mechanisms and measures in place.

**Mr. deBaca:** This is enough of a problem in schools that we have better information and techniques for prevention programs in middle schools and high schools than we do on college campuses. Middle and high schools are controlled spaces where prevention can be targeted within the structure. The US Department of Education has its school safety people focusing on this.

**Mr. Matson:** I am not aware of much research that studies offending in schools. The SOMAPI report, for which the literature was current as of 2012, did not include any. With violent offending, the perpetrator usually knows the victim through school, family, or neighborhood.

**Mary Beth Kelly** commented that, in Michigan, which is a registration state, they talk a lot about the very real collateral consequences of registration. They have seen three negative results:

- Some youth are simply barred because of their involvement in the system. Registration keeps them from college entrance, apartment rental, and many other things. While our state has liberal expungement, it does not help with registration.
- The “magic age” of 14 is not informed by the recent Supreme Court jurisprudence, which is driving everything in juvenile justice and needs to drive this as well. The rulings would run contrary to 14 and would suggest something closer to 17 as the magic age. Using age 14 is ill-advised and wrong.
- Young women involved in trafficking would find themselves having committed a sex offense and having to register when they are actually victimized. That twisted result would put them further and further behind.

Answer:

**Mr. deBaca:** The subject of age 14, as it is federal law, is better aimed at Congressional legislators.



Last spring, the SMART Office issued a solicitation for research on the topic of trafficking victims on the registry. The state of the research is such that applications were not useful enough to fund. We are still interested in and want to get a handle on this issue.

After this week, prostitution is no longer a crime in California, which means that we will not have to worry about this issue in that state. Our office, along with the DOJ Office of Victims of Crime and the Department of State's Office to Monitor and Combat Trafficking in Persons have worked to move aggressively into the trafficked victims' community. Many in that community are against expungement or allowing people to be shielded from the registry, because they think that the women who are enforcers for the pimps then will escape registration. There has to be a way to make sure that trafficking victims are not on the registry; they are not for whom the registry was intended. We need to continue this conversation and put that research call out again; hopefully, the academic field will be ready to engage on it.

**Ms. McPherson:** The American Bar Association (ABA) put together a great website about collateral consequences. There is "Think Before You Plea", which is dedicated to juveniles. We need to sort out the consequences of adjudication itself and those of the registration requirement. We may see registration requirements move into a sentencing scheme as opposed to a collateral consequence on its own. There are very serious consequences to lifetime sex offender registration requirements; for example, you are kept out of US Department of Housing and Urban Development (HUD) housing. We keep informed, and it does feed some of the policy decisions we make within the confines of the statute we are given. A benefit is that the statute is quite limited in which offenders are required to register. We do not want to minimize the consequences of registration on an individual.

**Tony Jones** offered the following observation: According to the understanding of research on the ground, there is no cure for sex offenders. Florida, for one, needs the low recidivism information mentioned here, as the current belief is that there is 98% recidivism and therefore treatment is pointless.

Answer:

**Mr. deBaca:** With that and with collateral consequences, there are limitations to our approximately \$20 million budget that used for everything. What we do around reentry and treatment necessarily ends up being smaller than what would be considered a pilot project. Our Circles of Support and Accountability Project only is in a couple of places. It is what we are taking into Indian Country, but we have less than a dozen sites around the country. The research tells us the treatment works and that circles of support work, both for collateral consequences and for reducing re-offending. However, we are not scalable under current resources, and it is not necessarily something that should be a federal program; this work needs to be taken on and owned by the states.

**Wendy Henderson** asked how granular of data the states can receive as follow-up. She added that having much more detailed information about who is actually on the registry, for what kinds of offenses and what ages, would be incredibly helpful to set the picture locally.

Answer:

**Mr. deBaca:** Our office is in the process of getting the right memoranda of understanding (MOUs) together with our federal data partners, both the FBI and the Marshalls Service, so we may start disseminating that information. Ten years into SORNA, we now have enough of a data set from which to pull. Once we are cleared to share the data, we will actively look to the field – states, academia, and criminal justice policy makers, among others – to learn what questions we can answer with it.

**Judge Timberlake** thanked the SMART Office staff for this presentation and discussion, and for the clarifications, noting that the FACJJ appreciates the team’s obvious sincerity.

## **DAY 1 – DISPROPORTIONATE MINORITY CONTACT (DMC) UPDATE AND DISCUSSION**

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**Tina Borner**, *Senior Compliance Analyst, OJJDP, Core Protections Division*, introduced herself and acknowledged OJJDP Administrator Robert Listenbee. She provided an update from OJJDP around DMC, explaining that her division deals with all four core protections delineated in the Juvenile Justice and Delinquency Prevention Act (JJDP). Her background includes working in probation and detention in Washington State, and she is a U.S. Army veteran. She served as the Maryland DMC Coordinator for about five years as well as a JDAI Coordinator for juvenile justice reforms in that state.

Ms. Borner presented information on OJJDP’s new Technical Assistance (TA) to End Racial and Ethnic Disparities in the Juvenile Justice System initiative, explaining that this is the first time money has been dedicated to training and TA to states and jurisdictions around ending racial and ethnic disparities. The initiative strengthens OJJDP’s support of the core requirements to reduce DMC of youth within the juvenile justice system. It provides tailored education, training, TA, and resources to state, local, and tribal governments and private organizations to try to help them address their needs in reducing DMC.

This initiative came from Administrator Listenbee’s Smart on Juvenile Justice Strategy, which helps guides states toward effective models that maximize savings, improve public safety, and serve the needs of our nation’s justice-involved youth. Under this initiative, OJJDP has been leveraging public-private partnerships to facilitate the adoption of an evidence-based developmentally appropriate and trauma-informed approach to juvenile justice. The TA was one of the first initiatives to emerge.

OJJDP’s uses two TA providers to provide DMC training and TA to jurisdictions; they are W. Haywood Burns Institute (BI) and Development Services Groups, Inc. (DSG). This initiative was begun in 2014, and TA requests to OJJDP have come from jurisdictions around the country. Ms. Borner gave a short list of examples of those requests, which have included SAG training, developing a plan for collecting data, strategic planning, speaking at conferences, and analyzing data, along with many others.

The Community and Strategic Planning (CASP) initiative was developed in response to increased requests from state-level DMC coordinators for guidance in engaging communities in

responding to DMC as well as a desire for assistance with effective implementation of the five-phase DMC Reduction Model. In 2010, there existed four initial demonstration sites: Kentucky, Maryland, Oklahoma, and Pennsylvania. A second cohort of states applied and received funding in 2013; those were Illinois, Iowa, Montana, and Utah.

A process evaluation was completed on the first (2010-funded) cohort; due to limitations of a shortened project timeframe, the data were adversely impacted. The states have reported some successes, and, if this initiative were to be funded again, it could prove to be successful. However, a lot of the issues around community engagement currently are being addressed by the high-level ending-racial-and-ethnic-disparities training and TA that is being provided. As well, OJJDP plans to submit a new solicitation next year for the recomplete of the training and TA service provision, and it looks forward to continuing this work.

### **Discussion**

**Mr. Vignati** and others on his team appreciated the information on the current regulations provided by the state advisor group training in DMC. If the regulations change with JJDP reauthorization, Georgia administrators would be very interested in receiving TA.

**Mr. Moeser** mentioned that people eagerly await the coming metric related to the five phases of DMC compliance, as measuring progress has been a challenge for many states. He asked Ms. Borner to share what a metric could look like.

**Ms. Borner** explained that the Compliance Determination Assessment Instrument (CDAI) is a tool that will be used by the Compliance Analysts to ensure that all phases of DMC compliance are being addressed by the states. The CDAI will be very well informed and fleshed out, and it hopefully will be released soon.

**Ms. Martin-Kohrs** asked about the length of probation officer training and whether it uses a specific curriculum on a state or local level.

**Ms. Borner** noted that all training is tailored and involves an in-depth conversation between the requester and the provider to determine the needs and, thereby, the length. Trainings are highly specific to a jurisdiction or state and can be phased in over time if lengthy.

## **DAY 1 – PROPOSED NEW BYLAWS AND IMPLEMENTATION TIMEFRAME**

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Jim Moeser explained that an ad hoc working group had revisited the FACJJ bylaws and had sent a memo to Administrator Listenbee. The significant change to the bylaws is regarding membership levels; the revision eliminates the categories of primary membership and alternate membership and defines a singular membership level. This change has the benefit of increasing the number of members who can participate fully in both subcommittee work and full FACJJ meetings; this includes voting. It also increases the diversity and voice of states across the country. The terms of members who move from alternate to full would be staggered to ensure that all do not cycle off the committee at one time.

A handful of minor procedural changes also is incorporated in the draft revised bylaws.

Mr. Moeser made a motion to approve the bylaws as amended on September 30 and propose them to Administrator Listenbee as the new bylaws for the FACJJ, and it was seconded by Ms. Ague. The vote carried without opposition or abstention.

## **DAY 1 – FACJJ EXPUNGEMENT AND CONFIDENTIALITY OF RECORDS SUBCOMMITTEE REPORT AND DISCUSSION**

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Kimberly Larson presented the Expungement and Confidentiality of Records Subcommittee report.

The concern around expungement and confidentiality of records emerged from the unintended and harmful consequences that can come out of a lack of confidentiality, with collateral consequences existing around such things as housing, education, and employment. Access (either inappropriate or no longer appropriate) to personal information and improper sharing of that information can cause such damage as well. Concerns were also raised about the availability of information to employers and landlords, which can lead to discrimination. On top of that, records may remain accessible into adulthood, presenting barriers as people try to become contributing members of their communities.

A review of the statutes and regulations on expungement and confidentiality by the subcommittee found wide variance, along with a general trend over the past 20 years to relax restrictions on accessing information. Procedures to seal or expunge records often are confusing and/or cumbersome. Issues around varying definitions exist as well, and the subcommittee concluded that a critical component in any effort to reduce harmful effects of juvenile records might require the use of uniform, consistent definitions across states, territories, and jurisdictions.

The subcommittee has thus far proposed four primary recommendations:

1. Research the legal basis of appropriate federal jurisdiction to devise a minimum standard for expungement and confidentiality
2. Research methods of access to records throughout states, territories, and the Federal Government
3. Consider federal jurisdiction in creating regulatory and statutory suggestions regarding the sale of juvenile records
4. Develop training and TA guidelines for states

The recommendations were accepted by the full FACJJ. They have been made to OJJDP, which has taken some action on this issue, including making funds available for legal services for youth seeking to seal or expunge their records.

The subcommittee brought in national experts, including Riya Shah, Senior Supervising Attorney for the Juvenile Law Center (JLC). Ms. Shah shared information on some of JLC's reports in this area.

During the subcommittee's most recent meeting, members expressed interest in continuing to focus on expungement and confidentiality of records, with an emphasis on sub-issues including understanding how information moves through systems; questions include:

- Who has access to records?
- At what points is information being appropriately accessed?
- Who holds the records?
- Under what conditions can records be released?
- Under what conditions do various agencies request records?

The goal would be to better understand how information is being obtained by parties who might or might not have the right to it. One example is evidence that employers in Washington, DC are receiving information about kids that should not be available under the limits of confidentiality; it seems that DC is not alone in this issue.

The subcommittee discussed the idea of examining whether laws are being violated and at which points (state and federal) it is occurring. A suggestion was made to contact various agencies to map the system and determine the intersection points and how information is being shared. Another idea is to involve subject matter experts (SMEs), including perhaps the National Center for State Courts. The end goal is to assemble products, such as a research agenda for following up on the subcommittee's last set of recommendations, and perhaps to develop model legislation.

If the subcommittee did want to pivot, other topics suggested included the school-to-prison pipeline, with possible narrowing to education, DMC, and charging vs. not charging for status offenses.

Ms. Larson reiterated the subcommittee's goal of deciding whether to continue to work on expungement; it plans to use the breakout session time to do so.

The subcommittee had no action items to consider at that time.

## **Discussion**

**Dave Rosenthal** commented that he had made the suggestion about examining whether laws are being violated, and at which points it is occurring; he did so, because employers in New York had heard DC information, which is supposed to be confidential. The idea is to study all the places with which a local jurisdiction shares information, such as agencies including the FBI, under federal law and under MOUs. Where does the leakage happen, and does it happen due to the system itself or due to problems within the system? Is there a separate issue to correct? The goal would be to ferret out how people are getting access to information this is supposed to be confidential in the home jurisdiction.

**Ms. Larson** added that another issue is for-profit companies' role in the transmission of information, perhaps even between states.

**Ms. Ague** commented that, in states with open records and mandatory registry, newspaper lobbies, state patrols, and a host of powerful people have access to the information and use it in questionable or negative ways.

**Mr. Rosenthal** noted another aspect of this: In DC, kids list convictions that don't need to be included on employment applications, including things that are adjudications. There may be better ways to communicate to system-involved youth the limitations in their obligation in filling out those types of forms.

**Penelope Spain** added that, in a common routine in DC, employers have kids retrieve their own records, and then the kid turns the record over to the employer. She echoed Mr. Rosenthal's idea to educate young people on this or to develop other fixes, such as forcing the employers to retrieve the records themselves.

## **DAY 1 – FACJJ RESEARCH AND PUBLICATIONS SUBCOMMITTEE REPORT AND DISCUSSION**

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Lisa Jacobs presented the Research and Publications Subcommittee report. She has co-chaired the subcommittee with Christine Perra Rapillo, and this active, engaged group had a good year bringing research, data, and facts to a complicated area of juvenile justice policy.

Ms. Jacobs shared some background on the subcommittee's decision to focus on youth involved in the system for sex offenses, explaining that it is a critical issue; although it is a relatively small number of youth, those kids often are explicitly excluded from all of the juvenile reforms and therefore subject to antiquated policy and practice typically based on approaches used for adults. The consequences of this are lifelong and profound, and the subcommittee wanted to bring data to bear on that discussion. As well, there exists a patchwork of law and policy accumulated over decades. Many registration laws precede SORNA.

The subcommittee's work over the last year has given rise to two recommendations:

- The first recommendation, adopted unanimously in May, called for existing federal law to be amended to explicitly exempt juveniles (defined as all persons under the age of 18 at the time of offense) from all sex offender registration, community notification, and residency restriction laws.
- The second recommendation, presented to the FACJJ in this meeting for consideration and adoption, calls on OJJDP and DOJ to identify, support, and incentivize the development and use of community-based, evidence-based, family-focused responses to youthful sexual misconduct and offending consistent with public safety. The rationale of the recommendation is consistent with the information shared by the SMART Office earlier in the meeting.

Ms. Jacobs noted that both of the above recommendations are meant to stand on their own, setting forth factual findings and rationales that support the recommendation and help educate policy-makers in the field. Therefore, the recommendation on the table includes factual findings, including that youths and adults differ and therefore the origin of sexual misconduct and offending can be very different; in turn, effective, evidence-based responses need to be reflective of those variances. The subcommittee asserts:

- While some variation exists in the specific findings, research demonstrates that the risks for sexual reoffending are very low among youth.

- The research clearly shows that registration does not reduce the risk of recidivism, that it actually can harm youth and victims of sexual offending, and that it can introduce risks to public safety in the long run.
- The research has indicated the existence of effective responses to youth who have committed sexual offenses; these include individualized responses, actuarial risk assessment, and risk-needs responsivity frameworks to address and reduce risks without over-intervention or poorly matched intervention.
- The research tells us clearly that communities and juvenile justice systems need to be equipped to use these research-based models and that staff must be skilled in them.
- An effective intervention for this population focuses on developing healthy youth, building positive relationships and cognitive behavior skills, and addressing trauma when it is present.
- By and large, effective responses are community based, and those should be used when consistent with public safety.

Ms. Jacobs called the FACJJ’s attention to specific suggestions of activities that can be undertaken by OJJDP and DOJ to identify and advance the use of effective evidence-based and fair approaches through research and through using existing – and seeking additional – funds to invest in demonstrated successful approaches, and to prioritize those responses over those now known to be ineffective or harmful.

Judge Davenport made a motion to adopt the Research and Publications Subcommittee’s recommendation, and Mr. Vignati seconded. A discussion followed.

### **Discussion**

**Jim Moeser** purported that it would be very helpful for the FACJJ to be on record with issues such as this one. The recommendation is very consistent with the SMART Office presentation; however, administrations and personnel change.

**Judge Daniels** asked for clarification that the intent of the recommendation is not to address registration at this point.

**Ms. Jacobs** explained that the subcommittee addressed registration explicitly in the recommendation adopted in May; this recommendation refers to the research demonstrating the inefficacy of registration.

**Judge Daniels** raised the issue of the definition of “community based”; is it where a person is living, which could be miles/hours away or in another state? He explained that this is a daily struggle for him, as there is a need to go outside Nebraska for some services. Also, in much state-level juvenile justice legislation, the term “community based” is used without knowledge of what it really means. The subcommittee Co-Chairs noted that, in the context of the recommendation, “community based” is intended to be contrasted with secure detention- and secure incarceration-based approaches, and that the group’s idea was to move toward EBPs (either existing or to be developed) that are the least restrictive alternatives possible that would be consistent with public safety. Therefore, “community based” does not specifically refer to the town in which the child lives. It became clear through the discussion, which included input by Judge Timberlake and Jane Kallal, that clarity is needed. For example, “least restrictive” can

include not assigning a child to a facility that has an unnecessary level of security for her/him, as advised by a facility or a mental health professional. As well, “community” is identified in many ways, not just geographical. Tawny Spinelli noted that research shows that the least restrictive environments lead to the most improved outcomes.

**Ms. Henderson** noted the dearth in Wisconsin of programming close to home and the lack of up-front funding to create specialized treatment options around the state. She expressed appreciation for the language around community-based programming in the recommendation, as it mirrors what she hears in her state.

**Greg Parks** added that research shows that most youth committing sexual offenses do not need residential placement and are placed there due to the lack of community-based services; developing those would keep kids at home.

**Justice Kelly** noted that, while keeping a child near his/her home is generally the best scenario, exceptions exist, given gang culture and other indicative reasons.

**Mr. Vignati** added that many rural areas do not have the services youth need.

**Ms. Jacobs and Ms. Rapillo** proposed a footnote at the first use of the term “community based” in the recommendation: “In this context, ‘community based’ means home-based or other non-secure therapeutic services delivered in the least restrictive setting consistent with public safety and positive youth outcomes.”

Judge Davenport made a motion to accept the amended subcommittee recommendation. Judge Daniels seconded the motion. The motion passed without opposition or abstention.

## **DAY 1 – FACJJ LGBT SUBCOMMITTEE REPORT AND DISCUSSION**

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Andrew Longhi presented the LGBT Subcommittee report. The subcommittee, whose membership uniquely includes numerous outside experts and advocates, has held two phone meetings to date and is in process of developing concrete recommendations in the following five categories:

1. Policy and program development
2. Internal and administrative OJJDP operations
3. Training and TA
4. Data collection and research
5. Pre-assistance standards/custody

Subcommittee members have been identified to lead the development of recommendations in each of the above subject areas. The subcommittee plans to review the proposed recommendations during the subcommittee’s next call on October 24, with the goal of sharing finalized proposed recommendations with the FACJJ within three months of this meeting.

Ms. Ague has been appointed as Co-Chair of the subcommittee, and she thanked members of the public who are participating on the subcommittee. Mr. Longhi will share the subcommittee



member list with the FACJJ; currently, there are 15 members, and 10 have participated on the calls.

## DAY 1 – FACJJ LEGISLATION SUBCOMMITTEE REPORT AND DISCUSSION

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Judge Amy Davenport presented the Legislation Subcommittee’s report. She began by sharing background of the subcommittee’s efforts, which were focused on the expected movement of reauthorization of JJDP. The FACJJ had recommended reauthorization of JJDP for a number of years, and the subcommittee discussed the provision of compliance support, particularly around the potential elimination of the valid court order (VCO) exception. The reauthorization bill was voted out of the Senate Judiciary Committee and was going to be Fast Tracked through the Senate; it then stalled.

In the spring, the subcommittee looked at other things on which to focus, and it considered looking at and perhaps working on other pieces of juvenile justice-related federal legislation. It also discussed developing a survey of SAGs in order to learn about the status of state projects and proposals, as there appeared to be much activity at the state level. Some questions had been drafted for such a questionnaire.

Then, in August, the proposed regulations were released. Mr. Moeser very quickly drafted the first of numerous drafts of a memo commenting on the regulations that might be sent by Judge Timberlake to Administrator Listenbee on behalf of the FACJJ.

Judge Davenport solicited SAG responses as they started to analyze the proposed regulations. Responses were as follows:

- **DC SAG (Dave Rosenthal):** The compliance monitor said there is a change in the interpretation of sight-sound separation, and that it now would be considered a violation to keep someone who was adjudicated in the juvenile system after s/he turned 18. (In DC, one can maintain in the juvenile system until 21 if adjudicated prior to her/his 18th birthday).
- **Greg Thompson, Senior Advisor to the Administrator, OJJDP** has been working closely with the Office of General Counsel (OGC) and others in OJP on development of regulations (“the proposed rule”), which was released on August 8; the closing date for comments is Friday, October 7. Mr. Thompson stated that it was not his understanding the rule would accomplish what Mr. Rosenthal relayed, and he noted that related guidance was given to states around 2006; it was since reversed. OJJDP decided that, as long as someone stayed in the juvenile justice system, it was not a violation. In answer to Ms. Spain’s clarifying question on this matter, Mr. Thompson directed her to OGC for legal guidance and to submit a comment.
- **Vermont SAG (Judge Davenport):** There is concern around raising of bar of compliance standards, which could put the state, with just 130,000 juveniles and many small law enforcement agencies, in the position of having zero violations.
- **Wisconsin SAG (Mr. Moeser):** The state has concerns around this small numbers issue.
- **Oklahoma SAG (Greg Parks):** The definitions of detain and confine come across as vague and ambiguous and perhaps not appropriate for adolescents.

## **Discussion**

**Mr. Thompson** explained that, as had been made clear in the guidance, he could not address specific questions from the states; however, detailed written comments are welcome through October 7. For instructions on how to submit comments, go to the August 8 Federal Register page 52377 (supplemental information, bullet #1 on the Federal Register website). Judge Timberlake added that comments will help OJJDP to craft an informed rule. The final rule will include responses to the comments.

**Judge Davenport** questioned whether the FACJJ should submit comments. At her request, Mr. Moeser provided the following background and elements of the confidential draft memo:

- The FACJJ is appreciative of OJJDP's process of providing draft regulations, inviting comments, and being open to suggestions.
- The memo reinforces the relationship between OJJDP and the states and the important role that OJJDP provides in terms of leadership and grants. At the same time, activities are taking place in the states, and it is the states that must implement the kind of reform envisioned by OJJDP. The goal is to maintain the interdependent relationship between OJJDP and the states.
- Several major items are listed in the memo, including the numbers issue, as well as detain and confine.
- The memo recognizes that it is in the interest and desire of states to continue to move forward while appreciating the tremendous progress that has been made.
- The memo includes an alternative calculation to the one proposed by OJJDP. The goal is to have a statistical formula and process that is reflective of the FACJJ's intent to keep pushing forward and does not harm the OJJDP-states relationship that has been successful in so many ways. Despite the reduction of Title II funds over time, the states have leveraged the available dollars in remarkable ways.

**Judge Davenport** expressed her appreciation for Mr. Moeser's explanation, echoing the importance of recognizing the valuable relationship between OJJDP and the states. One concern raised by states is that the compliance standards vis á vis the low level of funding make acceptance not worth the money; a fewer number of states participating could set back the gains that have been made to date. Therefore, she and Mr. Moeser have tried to focus the memo around the overarching concerns and not specific ones of individual states. She supports a compliance standard that holds states more accountable and is supported by the numbers but fears that many states would be out of compliance if the standard in the proposed regulations remain as is.

**Mr. Thompson** clarified that the inclusion of the details of the compliance standard was to inform states what would be in place should the proposed regulations be adopted. OJJDP has already received some very thoughtful comments with alternative methodologies to consider as well as a phase-in process. The comments can be accessed on the OJJDP website, and Mr. Thompson encouraged FACJJ members to read them.

**Sasha Pellerin** appreciated the conversation and planned to provide information to her colleagues in New Mexico, as concern around reduced funding and unattainable compliance standards is rampant and ongoing. Judge Timberlake added that he hears the same from numerous small states and rural portions of large states where people say that they are "sacrificing the good in pursuit of perfection."

The Legislation Subcommittee's recommendation is that the FACJJ submit comments on the draft proposed regulations by October 7.

**Ms. Henderson** pointed out that the state-level organizations and agencies whom juvenile justice need to comply, such as law enforcement, are not funded through OJJDP and are not within the same administrative structures. She suggested that, even with the best of intentions, there is likely to be some loss in translation.

**Tony Jones** asserted that law enforcement will have to be a part of compliance. He again proposed, with the knowledge that most law enforcement agencies receive Federal Government grants, that non-compliance negatively affect funding from other sources, similar to Civil Rights Act compliance.

**Justice Kelly** added that law enforcement in Michigan was the most ready participant in the state around DMC on the merits of the issue, and she asserted, based on experience, that law enforcement will come to the table if asked.

**Ms. Jacobs** expressed her concern around what happens when a state does not participate, as then no one is looking out for the youth and for best practices that are reflected in the core requirements. Participating in JJDP translates to having the authority to monitor youth in adult facilities and to seek collaboration around a host of issues. Pulling out means removing core protections from that state's youth and disempowering people who need to be empowered to oversee the welfare of youth. Judge Davenport and Mr. Moeser pointed to elements of the memo that introduce that point.

**Judge Timberlake** asserted that outreach from SAG members is key in informing those in violation of JJDP and is more effective than withholding funds.

**Mr. Vignati** noted that data exist about whether youth and their systems are better off, and he suggested mining that to use in conversations with people in at least partially non-compliant states.

**Mr. Moeser** reflected two concerns from the group regarding the memo:

- It does not include a comment that regulations do not clarify whether adjudicated youth can legally and appropriately be held in confinement in an adult facility.
- It does not recommend that DOJ to look at tying other kinds of funds to compliance requirements as it relates to law enforcement and other entities, including courts.

**Judge Davenport** suggested that, if a motion were made to recommend that Judge Timberlake send the memo, those two points be included.

**Mr. Moeser** made a motion to send a memo on behalf of the FACJJ to OJJDP, Administrator Listenbee, and Mr. Thompson that included the changes based on this discussion. Ms. Ague seconded the motion. The motion was passed without objection or abstention.

In response to a question from Mr. Moeser, Mr. Thompson explained that the timeline for issuing final regulations will be a tight one. OJJDP is already determining what comments need to be addressed legally and which ones need to be addressed policy-wise. The goal is to have the final rule released from the department by mid-December. Once the Office of Management and Budget approves the final rule, OJP may issue it.

**Judge Davenport** provided a brief update that the JDDPA reauthorization bill appears to be moving; the House version has been introduced and passed, and the Senate and House will work on it after the election. One of the major differences between the two bills is the three-year phase out of the VCO exception and an opt-out provision for hardship states. Judge Davenport does not know how long a state may opt out. It is possible that JDDPA will be reauthorized by January 1. Judge Timberlake added that many people in Congress really understand the issue, and it is possible that the reauthorization will pass prior to the end of the current administration.

The FACJJ had sent letters to the Senate and the House in the spring. At Judge Timberlake's suggestion, the subcommittee will reiterate the committee's position.

## **DAY 1 – MEMBERSHIP TERM CLARIFICATION**

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Mr. Slowikowski described the membership terms due to the acceptance of the draft revised bylaws removing designations of primary and alternate member. All indications were that the proposed changes would be accepted by Administrator Listenbee and would take effect with the terms of the new FACJJ members. All members (28 in total), whether new or veteran, will be full members starting October 1.

Mr. Slowikowski explained that, when the FACJJ was established in 2011, membership terms were staggered. The draft revised bylaws include "Class A" and "Class B" groups for purposes of ensuring staggered terms. Some new members and some existing members (alternates who will now become full members) will have a three-year initial term and then will be eligible for an additional two-year term. Others will come on as members with the standard two-year term and eligibility for an additional two-year term following. OJJDP will provide each member with a letter including clear individual membership term information. The system will allow for seven members, then 10, and then 11 to roll off over three consecutive years.

## **DAY 1 – DISCUSSION OF FACJJ GOALS AND SUBCOMMITTEE MEMBERSHIP FOR FY2017**

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Judge Timberlake led an open discussion of topics on which the FACJJ wishes to focus over the upcoming year-long term, along with which subcommittees could accept responsibilities around those subject areas and/or what subcommittees need to be created to take them on. He noted that, at the end of Day 1, all existing and any new subcommittees would meet individually. The goal was to leave the two-day meeting with a plan for activities – with subcommittees, individuals, resources, and timetables identified – to be undertaken over the next year. Judge Timberlake clarified that, if a subcommittee completes its work prior to the end of the year, another subcommittee can be established to cover another identified subject area. Subcommittees

develop policy or funding recommendations to OJJDP, and they bring them to the full FACJJ for discussion and approval.

The discussion began with the activities current subcommittees identified in their reports.

### **Legislation Subcommittee**

Judge Davenport mentioned the following two areas of focus:

- Pieces of federal legislation to be reviewed, tracked, and, if appropriate, recommended through FACJJ letters of support
- A survey of SAGs to identify issues of current or recent activity; common themes discussed earlier in the day were data collection, implementation of EBPs, DMC, and statutory change on jurisdictional issues

Mr. Moeser shared that a survey implemented several years prior had asked SAGs for suggestions about legislation on which the Federal Government should be working; the universal response had been JJDPA reauthorization. Some of the other ideas, such as expungement, got worked into subcommittees' activities.

Such information may drive some of the work of the Legislation Subcommittee but also would have a broader use; for example, it may evolve into a helpful resource for OJJDP and for SAGs that could include information, successes, and challenges.

The Legislation Subcommittee would share the questionnaire with the full FACJJ in a webinar meeting, perhaps in January 2017.

### **Expungement and Confidentiality of Records Subcommittee**

Ms. Larson shared some potential activities of the Expungement and Confidentiality of Records Subcommittee:

- Mapping the system to understand where information sharing/transmission occurs
  - Involve SMEs and groups such as the National Center for State Courts
  - Seek information from agencies as to how they move information
  - Potential products of this work could include a research agenda and draft model legislation.
- Looking at how we help youth understand their rights, specifically in the employment context, around sealing or expungement of records
- Focusing on the school-to-prison pipeline around education, DMC, and/or status offenses

Ms. Ague suggested that the subcommittee could reach out to SAGs in the 11 states without mandatory sealing to inform the FACJJ on school-to-prison-pipeline issues in their states.

### **LGBT Subcommittee**

Ms. Ague shared that the LGBT Subcommittee is still developing. The subcommittee's 15 members are top experts in the field, and the Co-Chairs are looking to them to drive recommendations in the five identified areas. She invited any interested FACJJ member to join the subcommittee and to share suggestions.

### **Research and Publications Subcommittee**

Ms. Jacobs noted that the Research and Publications Subcommittee has been focused on the recommendations for this year and has not thought through future activities. She mentioned relevant issues the subcommittee sees as important, unaddressed, and relevant to some states:

- Unique needs of girls
- Dual-status youth
- Commercial sexual exploitation of youth
- The place of residential care in today's juvenile justice system
- Struggle with realities around high-risk/high-need youth populations
- Youth and gun violence
- Youth-police relationships

### **Additional Ideas for FACJJ Work**

Judge Timberlake then solicited ideas from the FACJJ membership on potential areas of focus; they included:

- Increases in violent crime in juveniles (Cheryl Massaro)
- Implicit bias (Ms. Massaro)
- Mental health (Ms. Massaro)
- Runaway population/truancy (Judge Daniels, Mr. Rosenthal, and Justice Kelly)
- Effective, evidence-based gang intervention programs (Judge Daniels)
- Mental health and substance abuse (Ms. Kallal)
- Status offenders/Juveniles in Needs of Protection or Services (JIPS) (Ms. Henderson)
- Shackling and strip searches model legislation (Ms. Spain)
  - Some progress, some case law exists; Maryland has a task force around this issue

### **Discussion**

**Ms. Rapillo** asserted that many of the suggested areas could be combined, and Judge Timberlake noted that the purpose of the subcommittee meetings later in the day would be to determine what could be taken on by an individual subcommittee, either existing or new. He commented that subcommittees could include interdepartmental and outside experts.

**Judge Daniels** raised the idea of all FACJJ subcommittees including a focus on a singular issue, such as DMC.

**Judge Timberlake** agreed with the concept, asserting that such a focus be intentional across subcommittees.

**Judge Davenport** noted that one of the concerns with the new regulations is the meaning of "detention". She gave the example of runaways at a police department; how does the department hold and protect them while trying to find locate their parents, if they are to be told they can go freely?

**Justice Kelly** proposed that truancy and trafficking could be a combined subject area and would create an impact, explaining that young women who are truant from home or a court-ordered placement are typically involved in trafficking. She noted her work confining young women while working with the local FBI trafficking task force.

**Judge Davenport** suggested that the role of the FACJJ is to find the cracks in the work around subject areas and make helpful recommendations to OJJDP.

**Judge Timberlake** charged the four existing subcommittees to review their lists of subject areas, select the subject areas on which they will focus, and identify seeds for their work plans. He also noted the list of ideas that were raised that are not associated with any existing committee: the runaway population and gang intervention, children in need of supervision, mental health and substance abuse, and alternatives to detention and incarceration for the status offender population (including truancy and trafficking).

**Ms. Spinelli** raised the subject of transitioning youth/re-entry, noting the importance of teaching those coming out of the system transitioning skills, especially since juvenile justice-involved youth do not qualify for some of the supports. Judge Timberlake agreed, noting that child welfare systems also have unrealistic cut-off dates as it relates to current brain science. He noted some movement in child welfare and juvenile justice on this issue.

**Ms. Jacobs** reflected that many of the issues on the list generated by this discussion fit together under the larger theme of youth and families in crisis and how the juvenile justice system is expected to respond or not respond, i.e. youth who have run from placement or from home (including runaways; commercially sexually exploited kids; girls in danger; acute mental health/substance abuse needs, adolescent domestic battery; and, in some cases, dual-status youth). She suggested exploring the idea of looking at possible policy and programmatic responses for crises that the delinquency system is asked/expected to resolve.

**Justice Kelly** suggested that a recommendation in that area could be that other sources of funding must be applied to help those youth. Ms. Kallal added that some of this is not crisis management but is assisting families, whatever their makeup, help with their children's development.

**Mr. Parks** pointed out another theme: EBP in specialized courts for special populations.

**Mr. Moeser** noted that members may commit to one or more subcommittees. He reminded the group that its role is advisory to the Federal Government.

The current Chairs and Co-Chairs confirmed that they will continue to head their subcommittees.

**Ms. Spinelli** noted that she could not serve as Chair of a transitions-related subcommittee, as her term as FACJJ member is ending; however, she could be a subcommittee member. Ms. Spain would like to co-chair or participate on such a subcommittee, and Ms. Ague would participate.

**Judge Timberlake** created four group meeting areas for subcommittee organization meetings, and he charged the subcommittees with agreeing upon an immediate focus and coming away with a general idea on how to proceed, including a first meeting.

**Mr. Slowikowski** explained that OJJDP will support subcommittee work by disseminating meeting announcements for calls. Staff will need notice one week ahead of time to put together

an agenda and secure a conference calling line. They will take meeting minutes and distribute them. Funds for bringing in SMEs are included in the budget.

**Jeff Slowikowski adjourned the public portion of the Day 1 meeting at 4:22 p.m.**



## DAY 2 – ADMINISTRATIVE BUSINESS

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### **Reconvene and Roll Call**

Jeff Slowikowski called Day 2 of the FACJJ 2016 Annual Meeting to order. He reviewed the meeting logistics and agenda, and he called members' attention to the required Certificate of No Conflict and Non-Disclosure, asking that each complete, sign, and submit the certificate.

Mr. Slowikowski then conducted roll call.

### **Roll Call**

George Timberlake/Illinois (Chair)  
Starcia Ague/Washington (Co-Chair)  
Aileen Artero (via phone)  
Ashley Beall/North Dakota  
Timothy Brurud/Montana  
Vernon Daniels/Nebraska  
Amy Davenport/Vermont  
Wendy Henderson/Wisconsin  
Lisa Jacobs/Illinois  
Tony Jones/Florida  
Jane Kallal/Arizona  
Mary Beth Kelly/Michigan  
Kimberly Larson/Massachusetts  
ViEve Martin-Kohrs/Louisiana  
Cheryl Massaro/Florida  
James (Jim) Moeser/Wisconsin  
Gregory Parks/Oklahoma  
Sasha Pellerin/New Mexico  
Christine Perra Rapillo/Connecticut  
Dave Rosenthal/District of Columbia  
Melanie Shapiro/Maryland  
Paula Smith/Nevada (Tribal Member)  
Penelope Spain/District of Columbia  
Tawny Spinelli/Tennessee (Youth)  
Clarence Thomas/Wyoming (via phone)  
Joe Vignati/Georgia

Mr. Slowikowski asked all members to use the sign-up sheets provided to indicate their subcommittee membership(s). Any member may join up to two subcommittees.

- The Expungement Subcommittee has been renamed the Confidentiality Subcommittee, and Ms. Larson will continue as its Chair.
- The Legislation Subcommittee has been renamed the Legislation and Public Policy Subcommittee, and Judge Davenport will continue as Chair.
- Mr. Longhi and Ms. Ague will continue as Co-Chairs of the LGBT Subcommittee.
- Ms. Jacobs will continue to chair the Research and Publications Subcommittee.
- Ms. Spain will chair the new Transitioning Youth Subcommittee.

### **Appreciation of Outgoing FACJJ Members**

Judge Timberlake expressed the appreciation of the contributions by its outgoing members:

- Richard Broderick
- Tony Jones
- Kenya Lee
- Rob Lubitz
- ViEve Martin-Kohrs
- Jim Moeser
- Christine Perra Rapillo
- Linda Whittington

### **Appreciation of OJJDP Administrator Robert L. Listenbee**

Judge Timberlake recognized the tremendous leadership of Administrator Listenbee, noting that his impact is felt in both the department and in the field of juvenile justice and delinquency prevention. His commitment to reform recognizes the strengths of a juvenile court and a juvenile-focused system, at the same time not shying away from making needed improvements. Judge Timberlake acknowledged gains made over the prior fiscal year in how the committee and its subcommittees operate, and he reminded the group of OJJDP staff's ability to support subcommittees' efforts. Finally, he expressed appreciation to all FACJJ members for their willingness to lend their time and energy to the FACJJ.

## **DAY 2 – OJJDP UPDATE, REMARKS, AND OPEN DISCUSSION**

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Administrator Listenbee started by introducing OJJDP Deputy Administrator Chyrl Jones and gave her an opportunity to make a few remarks. Ms. Jones commented that she has seen significant growth in the FACJJ over the last two years and that she is excited about Judge Timberlake's leadership and Mr. Slowikowski's support of the committee. She reiterated OJJDP's availability to support the FACJJ's work. She echoed Administrator Listenbee's appreciation of the committee's members for their willingness to serve.

Administrator Listenbee welcomed the new members of the FACJJ and looked forward to hearing report outs from the various subcommittees and discussing goals for FY2017. He thanked Judge Timberlake for his strong leadership of the FACJJ and acknowledged all committee members for their dedication to advancing juvenile justice reform. He noted that the FACJJ's examination of critical problems in juvenile justice and proposals of clear, workable recommendations to OJJDP have helped to move the field forward.

Administrator Listenbee urged states to submit comments, including recommendations for alternative ways of addressing the issues, on the draft regulations by October 7. He also reiterated Judge Davenport's report on the Congressional activity around JJDP reauthorization.

Administrator Listenbee explained that this would be his last in-person meeting with the FACJJ as OJJDP Administrator, and he assured the group that the office remains committed to working with the committee to realize full compliance with the mandates of JJDP. He then highlighted some of OJJDP's recent accomplishments:

## **Rare, Fair, Beneficial Contact**

OJJDP envisions a nation in which children are healthy, educated, and free from violence; if they come into contact with the juvenile justice system, the contact should be rare, fair, and beneficial to them.

### Rare

OJJDP has emphasized the importance of diversion programs and the development of tools and assessments. Research has shown that detention centers and out-of-home-placement facilities do more harm than good to youth not at risk of re-offending. An example of a diversion/assessment program is the Florida citations program, OJJDP funded a pre-arrest diversion program being used by law enforcement to end the school-to-prison pipeline by significantly reducing referrals of youth to the juvenile justice system.

Administrator Listenbee cited a program in Georgia: a new juvenile justice law under which youth charged with misdemeanors are not placed in detention nor placed in out-of-home placement; as a direct result, the number of children entering the juvenile justice system has been reduced significantly. OJJDP works on that kind of comprehensive, data-driven statewide reform in conjunction with a public-private partnership with Pew Charitable Trusts, which does a large portion of the legwork to develop data-driven tools for measurement. Hawaii, Kansas, Kentucky, South Dakota, and West Virginia are also experiencing comprehensive reform with the assistance of Pew Charitable Trusts.

### Fair

Research shows that, if children perceive the justice system to be fair, they are more likely to cooperate with treatments and supervision, and they are more likely to work to leave the system and improve themselves. OJJDP works to develop models in which youth have legal representation.

### Beneficial

The goal is that every child who enters the juvenile justice system leaves better than when s/he arrived. One study in a Midwestern city has shown that only 25% of youth who came into the system left having received the appropriate assessments, diagnoses, and treatment. Many children who come into the system nationwide need better services while there. OJJDP has investigated a lot of attention on reentry, and the office will release a toolkit on the topic at the end of 2016. It has invested in correctional education and policies, as well as in sealings and expungements.

Over the years, the office has worked hard to make the vision of rare, fair, and beneficial a reality, with work that helps states, communities, and tribes improve their juvenile justice systems in multiple areas. Three of those are:

- Efforts to prevent children's exposure to violence and address the trauma they experience when they do suffer such exposure;
- A focus on the expungement and sealing of juvenile records to improve reentry outcomes for youth; and
- FY2016 grants, which fund evidence-based, developmentally appropriate, and trauma-informed approaches to juvenile justice.

As it works on addressing the core protections of JJDPA and reducing out-of-home placements, OJJDP is also supporting a comprehensive, trauma-informed approach to reforming the juvenile justice system. Administrator Listenbee specifically noted the reduction of out-of-home placements throughout the country, from 109,000 children in juvenile justice facilities in 2001 to 51,000 in 2014, and pointed to the work done in the states that has led to that reduction. He asserted that the data need to be publicized far more broadly than they have been to date, because the world does not seem to realize this success.

Administrator Listenbee noted that there is still work to be done: Of the children in out-of-home placement, 60% of them are there for nonviolent offenses, with 5% for status offenses and a substantial percentage for technical violations of probation and parole. Alternative ways to address these kinds of issues are needed to keep youth out of the system. Costs are very high, with an average per child per year of over \$100,000 and up to \$260,000 in certain jurisdictions; if nonviolent kids are not placed in confinement, monies can be used to better treat those who are.

### **Preventing Exposure to Violence, Addressing Trauma**

Through the Defending Childhood initiative, OJJDP aims to more fully understand and mitigate the harmful effects of children's exposure to violence as witnesses or as victims.

Two reports have been released under the initiative—the *Report of the Attorney General's National Task Force on Children Exposed to Violence* and *Ending Violence So Children Can Thrive*, a report of the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence.

A primary recommendation from the initial report called for the development of a public awareness campaign to educate the public on the impact of children's exposure to violence. In response to that recommendation, OJJDP will launch a national public awareness campaign this October called "Changing Minds". The campaign consists of public service announcements, a website – ChangingMindsNOW.org – a toolkit, and other resource materials (video clips, posters, etc.). The objectives of the campaign are to raise awareness about the urgency and prevalence of childhood trauma and exposure to violence, and to motivate adults who regularly interact with children and youth to take action and help them heal. The goal is to raise public awareness to the level of seatbelt use and smoking. The toolkits will be useful for schools and for law enforcement.

Administrator Listenbee clarified that exposure to violence is widespread, cutting across all economic, racial, and ethnic groups. OJJDP's second report in this area, *Children's Exposure to Violence, Crime, and Abuse: An Update*, done in conjunction with Centers for Disease Control and Prevention (CDC) and the Crimes Against Children Research Center of the University of New Hampshire, demonstrated that 6 out of 10 children had been exposed to some form of violence – through being bullied (in person or online), witnessing domestic violence siblings or shootings, fighting in school, or being beaten up by their sibling(s) – at some point in the prior year. In that same time frame, 1 in 10 children had experienced more than five exposures to violence. Administrator Listenbee commented that not all who experience violence are traumatized, but that many are; results can include poor school outcomes, substance use, bullying, and violence (including retaliatory violence).

Administrator Listenbee asserted that, in order to help children, we need to screen for and define the violence to which they have been exposed and how they have been impacted. Also, we need to provide healing for them. We have emphasized that violence is preventable, and we have shown we can help children exposed to violence to heal. He believes that, for at least the first half of the 21st century, one of the most important things we will deal with in the lives of children is addressing the issue of trauma.

OJJDP has developed, along with DOJ's Office for Victims of Crime, an initiative for male victims of violence, a population that outwardly acts unfazed when victimized. The program has focused on hospitals and emergency rooms, a place where victims are most vulnerable and open to dealing with some of their problems and challenges. In a model program, entitled Healing Hurt People, social workers meet with victims and their families to steer them away from retaliation and from engaging in activities in which they are traumatized, toward addressing some of their underlying problems and getting them back in school.

Administrator Listenbee charged jurisdictions and SAGs with developing ways to address youth trauma that work in specific locales.

### **Expungement and Sealing of Records, and Reentry Assistance**

OJJDP also is working to facilitate the expungement and sealing of juvenile records – a key focus of the FACJJ's recommendations to OJJDP – based on the belief that involvement with the juvenile justice system should benefit young people, not create additional obstacles in their lives.

OJJDP and HUD are working collaboratively to help individuals who have paid their debt to society to rehabilitate and reintegrate into their communities. With funding from OJJDP, HUD created 18 sites with civil legal services and housing services to address this issue. In addition, OJJDP provided funding to the National Juvenile Defender Center (NJDC), which hired lawyers to provide legal services in specific locations. This work was based on FACJJ recommendations on this topic.

Through the Juvenile Reentry Assistance Program, funded through OJJDP's Second Chance Act, young people are being enabled to successfully transition back to their communities following confinement through records expungement and sealing, and by providing civil legal services that reduce barriers to housing, employment, medical care, and educational opportunities.

### **Grants Funding**

In FY2016, OJJDP made awards that are funding important initiatives and projects being carried out across the nation.

Most recently, the department announced the award of more than \$53 million in Second Chance Act grants to state, local, and tribal government agencies and community organizations. OJJDP provided more than \$10 million of that funding to ensure the successful transition and reintegration of justice-involved youth back into their communities and – most importantly – into their families.

### **Additional OJJDP Initiatives: FY2016 Progress**

OJJDP has made indigent defense an integral component of its juvenile justice reform efforts. Under the Smart on Juvenile Justice: Enhancing Youth Access to Justice Initiative, the department is providing funding to:

- Develop statewide model juvenile indigent defense delivery systems, due to a significant lack of confidence in the system and in its representatives;
- Implement standards of practice and policy for the effective management of these systems; and
- Support state and regional resource centers as they help juvenile defense systems enhance legal representation, leverage resources, and collect and analyze data to measure the effectiveness of specific initiatives.

In the area of indigent defense, in FY2015, OJJDP awarded planning grants to Delaware, Indiana, Kentucky, and Washington to support the development of statewide juvenile defense reform strategic plans with standards of practice and policies for the management of those systems. OJJDP also opened two regional resource centers, in Colorado and in Washington, DC. In addition to providing training and technical assistance to the four states mentioned above, the department also funded the National Juvenile Defender Center to hire, train, and place reentry fellows (attorneys) in five locales—Baltimore, MD; Columbia, SC; Lincoln, NE; Martinez, CA; and St. Louis County, MO. The National Juvenile Defender Center is also finalizing an OJJDP-funded instrument, “A Blueprint for Achieving Access to Counsel and Equal Protection Under the Law for America’s Children,” that likely will prove seminal to the juvenile justice field.

Together with its partners, OJJDP is working to ensure that every young person involved in the justice system receives quality representation, regardless of social status. To that end, OJJDP provided more than \$2.8 million in funding through the Enhancing Youth Access to Justice initiative in FY2015.

OJJDP was recently reorganized to create a Core Protections Division, a move that will help the office better meet the mandates of JJDPA. Ms. Garry, OJJDP’s new Deputy Administrator – a member of the Senior Executive Service (SES) along with Ms. Jones – now has oversight of the division. The office recruited Marlene Beckman to serve as Acting Associate Administrator.

OJJDP is working to streamline the compliance monitoring process; to this end, in August, the office published new proposed regulations in the Federal Register to help draw its work closer to full compliance with the mandates detailed in JJDPA. OJJDP plans to review and follow up on comments it receives on the new regulations; therefore, it is important that it hears from all of the states and the field. The goal is to come up with final rules that work best for protecting children and assisting states in meeting the Act’s mandates.

Administrator Listenbee assured the FACJJ that, as it works on a new guidance manual and procedures for gathering data, core protections and compliance monitoring will remain priorities for OJJDP.

Administrator Listenbee once again expressed his gratitude to members of the FACJJ for the consistently great work they put into the committee’s recommendations to benefit the juvenile

justice field, noting that everyone at OJJDP truly appreciates the group's support. He called it an honor, a privilege, and a pleasure to work as Administrator with such a fine group.

Administrator Listenbee noted requirements of members that have been added to the bylaws: knowledge of JJDPA and its core protections. As well, minutes of meetings are to be provided to SAG Chairs. He asked the FACJJ membership to consider additional responsibilities that it could take on to create a stronger connection and information flow between the federal office and the SAGs and jurisdictions. OJJDP needs direct feedback on its work.

## **Discussion**

### **Judge Timberlake:**

- The storm of comments in response to the amended regulations as to compliance is important – SAGs need to engage in this conversation, and they emulate OJJDP's work, including the core requirements; state structures around them are designed for compliance monitoring and have yielded the extraordinary reduction in violations over time. SAGs also focus on the work of the field, developing responses to individual issues in their states, and can inform the work of OJJDP.
- The recitation of responsibilities of SAG and FACJJ members is a very healthy exercise, and the FACJJ looks forward to developing that two-way conversation.

**Judge Davenport:** The Legislation and Public Policy Subcommittee plans to develop and disseminate a survey to all SAGs that collects information on their activities and areas of work; this should serve as some communication from the FACJJ; hopefully it will also serve as a way to learn how the committee can support SAGs' efforts.

**Administrator Listenbee** suggested there may need to be more realignment. The bylaws change creates some of that, but more needs to be accomplished around placement, proximity, and communications. The field has power; individual states are doing outstanding things not happening anywhere else in the country; we need to figure out how to share information among the states. We also need youth engagement in SAGs. Youth are represented on OJJDP youth justice-related issues, and they have provided great insight and information.

**Ms. Henderson:** I recently have visited all detention centers in Wisconsin as part of my new juvenile justice system oversight responsibilities. Over the past six years, state laws have significantly expanded allowable detention duration times, now up to 365 days. Has there been consideration at the federal level around the purpose of and activities required in a detention center?

**Administrator Listenbee** explained that, in Philadelphia, where he helped get a detention center built, a child may be held a maximum of 10 days before a hearing takes place. If a second hearing is required, that must happen within 10 days of the first one. The detention center was not designed for treatment, although some options are available there. The system as designed in general is that detention is short term and children can get to facilities that address their unique needs. However, design guidance and hard-core rules are different things. This is an issue that may need to be explored further as part of the FACJJ's work.

**Judge Timberlake** added that the detention issue also is current in Illinois: one issue is that no detention hearings occur over the weekend anywhere in the state. A suit was brought recently on this, with positive results. One thing being looked at in Illinois is the financing for building detention centers, as financial mapping is as important to reform as is the science that directs the work.

**Ms. Jacobs:** JJDP participation by states allows oversight that would not otherwise exist, but it does not equip us to look at what happens to youth in detention. A robust detention oversight mechanism does not exist in Illinois and possibly elsewhere. Guidance or a way to equip SAGs with a voice in some way on this would be helpful, as this is a missing piece around oversight of and advocacy for youth.

**Administrator Listenbee** pointed to the recent Juvenile Law Center report on fines and fees.

**Joe Vignati:** A lot of people on the FACJJ have broad knowledge and specific knowledge of the different components of juvenile systems and what juvenile justice is in their state, their local communities, and across the country. One thing this group can effectively do, and may need to look at doing, is to communicate what juvenile justice is in a simple way to the general public. Education is needed to affect policy, financing, and more to make changes in local communities. I suggest that we keep that in mind to push the message forward without getting bogged down in technical jargon. The Annie E. Casey Foundation has supported the Frameworks Institute to communicate in a very simple way using understandable metaphors.

**Paula Smith:** Within my tribal lands, there is no detention center in the state of Nevada. We had contracts with county facilities, but due to late payments by the Bureau of Indian Affairs, many of those facilities no longer allow us access. Tribal juveniles who are locked up for 30 days or less go to the Colorado Indian Tribe in Parker, Arizona; those being locked up beyond 30 days go to the Chief Ignacio Justice Center in Towaoc, Colorado. With the existence of the Juvenile Detention Alternatives Initiative (JDAI) at the state level, I try to inform tribal communities about alternatives to detention and advocate for keeping youths out of detention. But, sometimes it is necessary.

Regarding trauma, very helpful resources are Dee Bigfoot, PhD at the University of Oklahoma Health Sciences Center, as well as the Indian Country Trauma Center.

**Administrator Listenbee** noted that OJJDP, as part of the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, presented its report on trauma to the Attorney General; that report shows that American Indian/Alaska Native (AI/AN) children suffer exposure to violence and trauma at astronomical rates. Their post-traumatic stress disorder (PTSD) is on par with that of soldiers returning from Iraq and Afghanistan, and suicide rates are very high. More needs to be done for tribal youth. The Senate Committee on Indian Affairs provided more funding this year for tribal youth, and OJJDP has hired a tribal policy advisor, Marilyn Zimmerman, former Director of the National Native Children's Trauma Center. And Dr. Bigfoot is an OJJDP grantee. Assistant Attorney General Karol Mason has developed the Consolidated Tribal Assistance Solicitation, which is led by Ms. Garry. Ms. Garry also coordinated the Tribal Law and Order Commission. FACJJ members can



receive support from this office, and the FACJJ can receive support or even a briefing on the issues directly connected with tribes and the locations of tribal youth.

Regarding messaging, OJJDP has enhanced its communications unit, and changes are coming to its website soon. Administrator Listenbee solicited ongoing feedback from the FACJJ on the website and its usefulness to those in the field.

OJJDP has done a lot of work around solitary confinement for juveniles, and the President has spoken out about and has banned it in federal facilities. He has encouraged OJJDP to support the elimination of the practice. Attorney General Lynch and Administrator Listenbee have spoken out against it as well. OJJDP continues to provide training and TA to provide alternatives and create culture change and can offer such support to jurisdictions.

**Lisa Jacobs:** How do you recommend we work together to support the implementation of recommendations made by the FACJJ?

**Administrator Listenbee** asserted that a framework is needed for timeliness of responses to FACJJ recommendations. OJJDP's responses come in the forms of policy, research, grants, and training and TA. While the office cannot share where grants have been awarded, one can access the Forecaster as a source for grants information. He suggested the FACJJ ask about policies in development and upcoming research.

**Chyrl Jones** reminded the FACJJ that Mr. Slowikowski is its spokesperson to OJJDP.

**Starcia Ague:** Thank you, Administrator Listenbee and the FACJJ for listening to youth and for helping to move that work forward. What can we do at the state level to ensure that the SAGs to do the same?

**Administrator Listenbee** noted that SAGs are required to include youth members. Persuasion, policy documents, and requests to the states have some effect. He solicited specific recommendations on how he should address this issue in his time left in office and what staff should do going forward.

**Ms. Ague:** In numerous states, bylaws require a youth member or a member who was formerly incarcerated, but the governor will not appoint one. States need to be held accountable to their bylaws.

**Judge Timberlake:** It would be useful to survey the SAGs to find who is doing this well, as models are very useful.

**Ms. Ague:** I was part of an OJJDP group that interviewed young people from across the country two years ago. We presented the survey but have not seen the results. And the FACJJ recommendations presented in 2013 included a section on youth engagement. Follow-up is needed.

**Ms. Jones:** OJJDP's Family Youth Engagement Policy hopefully will be released over the next few months. Also, all solicitations from the office beginning in 2015 include standard language requiring a family-youth engagement component.

OJJDP's Police and Law Enforcement Youth Roundtable and Mentoring Roundtable both had youth representation. All other convenings, including roundtables and listening sessions, include a youth and/or family voice at the table. We need to be doing even more in this area.

**Ms. Ague** suggested providing stipends for youth participation.

**Administrator Listenbee** explained that the office tried to offer stipends to youth but did not get clearance to do so. Clarity is needed around this.

**Mr. Vignati** acknowledged that OJJDP has been very supportive of youth engagement in years past, including by providing funding to the Coalition for Juvenile Justice for conferences and trainings. Youth engagement is quite state-dependent; examples of states that have significant youth involvement are Florida and Kentucky.

**Justice Kelly:** The Michigan SAG has encouraged youth engagement by tasking youth members with work. They created a video for the SAG's website about what their participation means to them. Choosing the right youth is important, and tasking them with committee work is necessary as well.

**Ms. Kallal:** Arizona has been very successful in this area. The Family Involvement Center has worked with including family and youth voices in system reform across all child-serving agencies. Ideas for involving youth include connecting them with those who are involved with state systems. Beyond receiving stipends, youth need to know they are part of a movement. Another idea is to both prepare youth and parents and involve them in the SAG's efforts; work can involve implementing changes and serving on related committees. Regarding stipends, grants and contracts often do not allow stipends to be given, but they have been given through community organizations. It is crucial to ensure youth are using their personal backgrounds and knowledge and are not just place-holders on the SAG.

**Judge Daniels:** Youth face similar issues to people of color: specifically, the prison pipeline. They are not mentored when they come into the SAG and are overwhelmed or intimidated by the experience and titles of others there. SAGs need to accommodate school calendars so youth understand that they are an integral part of the process, and they need to provide opportunities for real work.

**Ms. Spain:** One suggestion is to loosen the requirement that youth be named as SAG or Juvenile Justice Advisory Committee (JJAG) members. It seems that governors are slow to appoint. Often we have two or three youth who are keen to work on a particular issue relevant to the SAG or JJAG, but youth are more transient given their schedules, plans, and priorities. Supporting youth on more informal, potentially shorter terms when necessary, while ensuring consistent youth representation, might assist with compliance and get young people involved.

**Ms. Spinelli** pointed out that transportation is a resource issue for youth. Creative policies are needed for ensuring youth are able to travel to the meetings.

**Judge Timberlake** thanked all involved for this vibrant and necessary discussion.

## **DAY 2 – CERTIFICATE PRESENTATION TO NEW AND RENEWING FACJJ MEMBERS**

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Administrator Listenbee presented certificates of appointment to the following departing members in appreciation of their efforts on behalf of the FACJJ:

- Tony Jones
- ViEve Martin-Kohrs
- Jim Moeser
- Christine Rapillo
- Not present: Kenya Lee, Rob Lubitz

Administrator Listenbee welcomed new members of the FACJJ. First, he acknowledged those moving from alternate to full member:

- Kimberly Larson
- Sasha Pellerin
- David Rosenthal

Then, he acknowledged the newest members:

- Wendy Henderson
- Jane Kallal
- Justice Mary Beth Kelly
- Cheryl Massaro
- Melanie Shapiro
- Paula Smith
- Joe Vignati
- Not present: Thomas Broome, Aris Johnson, Penelope Spain, Clarence Thomas

Those not in attendance will be shipped their certificates.

A group photo was taken.

Members returned their conflict of interest/non-disclosure forms.

## **DAY 2 – 2016-2017 CHAIR AND VICE-CHAIR ELECTIONS**

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Mr. Slowikowski presented the elections for Chair and Vice-Chair for the term running October 1, 2016 through September 30, 2017. The single nomination for Chair was Judge Timberlake. Vice-Chair nominations were Ms. Ague and Judge Davenport. Ms. Ague declined the nomination of Vice-Chair given her shared leadership of the LGBT Subcommittee. No other nominations were put forward.

Mr. Moeser made a motion for acceptance of the nominations of Judge Timberlake as Chair and Judge Davenport as Vice-Chair, and Ms. Pellerin seconded. The vote carried without opposition or abstention. For clarification, only primary members voted, as this meeting was held under the current bylaws.

## **DAY 2 – 2016-2017 SUBCOMMITTEE REPORTS**

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The subcommittees provided updates based on their prior-day closed meetings.

### **Legislation and Public Policy Subcommittee**

Judge Davenport reported that the Legislation and Public Policy Subcommittee will:

- Continue to monitor federal legislation, including JJDPa reauthorization and other bills are introduced in January relating to juvenile justice; and
- Embark on developing a reasonable-length survey of SAGs, providing an outline during the January webinar for comment.
  - The subcommittee will need the help of the office to put the questionnaire in Survey Monkey format.
  - All FACJJ members are encouraged to offer ideas for the survey.
  - In January, the subcommittee will ask members to encourage juvenile justice specialists to respond to the survey and bring it to their SAG members for their responses.
  - The survey will include a series of questions to learn what the SAG's work is around DMC, including innovative practices.

Subcommittee members are:

Judge Davenport (Chair)

Ashley Beall

Tim Brurud

Judge Daniels

Cheryl Massaro

Melanie Shapiro

Joe Vignati

The subcommittee will meet on the fourth Tuesday of each month beginning October 25.

### **Research and Publications Subcommittee**

Ms. Jacobs reported that the Research and Publications Subcommittee will focus on:

- Youth, families, and communities in crisis: youth, gangs, and guns through a youth developmental lens and a racial and ethnic disparities lens
  - The goal is to bring forth the current and best research to be able to articulate:
    - What we know about this issue;
    - What the research suggests states should do in terms of policy and practice, and what the Federal Government should do in terms of policy, practice, and funding; and

- What we would recommend for OJJDP's role in advancing best practices around youth and gangs.

If time allows, either concurrent with or after the work delineated above, the subcommittee may chose to focus on runaways, dual system-involved youth, and/or trafficked youth. This is to be determined.

Organizational support likely will be needed to develop a meeting and discussion schedule, as well as to assemble gang-related OJJDP research and provide access to expertise in this area.

The work of this subcommittee dovetails clearly with the DMC focus.

Subcommittee members are:

Lisa Jacobs (Chair)

Judge Daniels

Wendy Henderson

Jane Kallal

Christine Perra Rapillo

Dave Rosenthal

Paula Smith

Tawny Spinelli

The subcommittee meeting schedule is to be determined; one possibility is to continue with the third Friday of the month.

### **Confidentiality Subcommittee**

Kimberly Larson reported that the Confidentiality Subcommittee discussed a shift of focus from expungement to the confidentiality of juvenile records. The subcommittee will begin by exploring how information is shared across systems and the collateral consequences of that information-sharing, as well as points at which that information is being leaked. Employment and education are areas of interest. The subcommittee would like to include questions in the SAG survey exploring states' penalties for unsanctioned sharing of information, it is interested in speaking with the FBI and SORNA to understand the systems, who views records in the systems, and how they share juvenile record information.

At its next meeting, on a date likely before the end of November to be determined, the subcommittee will further distill its plan.

Subcommittee members are:

Kimberly Larson (Chair)

Starcia Ague

Dave Rosenthal

Melanie Shapiro

### **Transitioning Youth Subcommittee**

Ms. Spinelli, on behalf of Ms. Spain, reported that the Transitioning Youth Committee hopes to explore best practices in child welfare and adapt them to juvenile justice and to explore and

compare states' current procedures and processes around transitioning and reentry. The subcommittee plans to engage system-involved youth, as well as those who have aged out of the system, in developing recommendations.

The subcommittee plans to meet next via conference call on Thursday, October 17 at noon ET and will need logistical support to arrange that meeting. At some point, the subcommittee may need access to SMEs and/or to existing research. The subcommittee wishes to plan future meetings.

Subcommittee members are:

Penelope Spain (Chair)

Starcia Ague

Jane Kallal

Mary Beth Kelly

Sasha Pellerin

Tawny Spinelli

Tony Jones

### **LGBT Subcommittee**

Ms. Ague reminded the FACJJ that the LGBT Subcommittee has approximately 10 non-committee members who are experts from across the country, and she invited FACJJ members to join the subcommittee. At this time, the subcommittee needs OJJDP conference call support and meeting minutes for those calls.

Subcommittee members are:

Starcia Ague (Co-Chair)

Andrew Longhi (Co-Chair)

ViEve Martin-Kohrs

Cheryl Massaro

Jim Moeser

Greg Parks

### **General Subcommittee Notes**

#### Stakeholders and Voices on Subcommittees

Ms. Kallal suggested bringing in stakeholders to give a DMC perspective and a youth/family voice on every subcommittee. She offered a model for identifying stakeholders through having subcommittee members bring those with whom they work in community to the table.

#### Notice of Subcommittee Meetings

Subcommittee meeting calendar invites are sent to the specific subcommittee members; any FACJJ member is welcome to participate in any subcommittee meeting. The full FACJJ will receive a list of when subcommittee meetings are held ("Xth day of the month at X time"). If a member wishing to receive calendar invites for a subcommittee of which s/he is not a member is encouraged to contact Mr. Slowikowski.

Mr. Slowikowski will conduct a Doodle poll on behalf of any subcommittee that wants to use that tool for selecting meeting times.

### Recommendations in Real Time

Judge Timberlake reminded subcommittees not to wait until end of year to make recommendations. Webinar meetings will include a consideration-of-recommendations agenda item.

### Subcommittee Focus-Area Changes

Judge Timberlake noted that a subcommittee may shift its area of focus should it complete its body of work; it is asked to alert the FACJJ to such a change.

## **DAY 2 – MEETING REVIEW, LOOKING FORWARD, AND MEETING ADJOURNMENT**

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### **FACJJ Vacancies**

OJJDP will move to fill the two FACJJ vacancies in the fall and will solicit nominations from SAGs in the states where vacancies exist. The open positions are representing Oregon, Washington, Alaska, Hawaii, the Pacific territories. OJJDP will ask that tribal members and representatives of law enforcement be put forth, but it cannot force SAGs to do so.

Dave Rosenthal suggested that members who have connections with law enforcement in the states and territories encourage representatives to apply to serve on the FACJJ.

Administrator Listenbee noted that members of law enforcement, like other stakeholders, could serve on subcommittees even if they are not FACJJ members, noting the importance of having their perspective on all of the work of the committee.

OJJDP did a significant amount of outreach for nominations and received numerous quality applications this past term. Mr. Slowikowski welcomes ideas for further communication with potential members.

### **FACJJ Leadership Committee**

Judge Timberlake explained that the Leadership Committee – made up of the Chair, Vice-Chair, and subcommittee Chairs – participates in regularly scheduled calls; those remain to be arranged.

### **Upcoming FACJJ Webinar Meeting**

The next FACJJ webinar will take place during the week of January 9-13. A Doodle poll will be distributed promptly for scheduling purposes.

### Webinar Platform

A discussion was held around a more interactive platform that Adobe Connect (used currently) for the FACJJ webinar meetings. Ms. Ague mentioned Skype, Google Video, and Facebook as possible options. Ms. Spinelli mentioned the Blue Jeans platform, in which one is able to see participants' faces. It is possible that Adobe Connect has similar options. Potential challenges include the large number of FACJJ members, and call-ins as well as those on phone and video.

Judge Timberlake commented that the FACJJ should continue to use a platform that works while exploring other options. Ms. Henderson added that her state agency blocks a lot of online content; she would need advance notice to be able to use a unique platform.

**Prosecutor Guidance and Training**

Administrator Listenbee announced that OJJDP has a new set of guidelines for prosecutors that will be made available throughout the nation, a new set of prosecution standards that will be approved by the National District Attorney's Association, and a new curriculum for training prosecutors. The office will need assistance in disseminating information about these tools.

**Judge Timberlake adjourned the meeting at 11:43 am ET.**