



October 14, 2015

To: Mr. Robert Listenbee, Administrator
Office of Juvenile Justice and Delinquency Prevention (OJJDP)
From: Dalene Dutton, Immediate Past Chair; Jim Moeser, Vice-Chair
Federal Advisory Committee on Juvenile Justice (FACJJ)
Re: 2015 FACJJ Recommendations

Through this correspondence we respectfully convey to you the policy recommendations that have been approved by the FACJJ to-date in 2015. We initiated this work by seeking input from a variety of stakeholders, including State Advisory Groups, Juvenile Justice Specialists, Disproportionate Minority Contact Coordinators, and other national stakeholder groups to identify issues of concern to our states. That input led to the creation of workgroups that developed recommendations to present to the full FACJJ for discussion, approval, and submission to you in three areas: (1) Issues related to the confidentiality, sealing, and expungement of juvenile records; (2) Priorities for research and education supported by OJJDP; and (3) Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP Act).

Thank you for your support of the FACJJ, including your consideration and responsiveness to our prior recommendations. We look forward to continued dialogue related to these recommendations as well. We commend you for the important vision and leadership you have provided to OJJDP and extend our appreciation for the support other OJJDP staff have provided to us in our work.

EXPUNGEMENT, SEALING, CONFIDENTIALITY OF RECORDS

BACKGROUND:

There are often unintended and/or harmful collateral consequences for youth with juvenile records that affect their ability to obtain housing, education, employment, etc. Contributing conditions include: (1) access to personal information (e.g. health, mental health, AODA, family information, etc.) that is unrelated to any appropriate use/access by treatment providers or other authorized individuals; (2) ill-defined and rarely-enforced protections against subsequent improper sharing of such information, even if original access by a party is appropriate; and/or (3) the availability of information about a youth to the public, including potential employers, landlords, or others who may use the information to discriminate against youthful offenders. In some states, these records may remain accessible well into adulthood, often placing additional barriers in a young adult's efforts to become a contributing member to our communities. Statutes and regulations across the states related to both expungement and confidentiality vary widely, with a general trend for most of the past 20 years of relaxing restrictions on access to information, and/or often-confusing and cumbersome procedures to seal or otherwise expunge a prior record. A critical component of any effort to reduce harmful access to juvenile records will require the use of uniform, consistent definitions across states, territories, and jurisdictions.

RECOMMENDATIONS: The Expungement, Sealing, and Confidentiality of Juvenile Records Workgroup recommends that OJJDP:

1. Research legal bases for appropriate jurisdictionsⁱ to establish minimum standards and definitions for expungement, sealing, and confidentiality.
2. Research and describe methods of access to juvenile records throughout states, territories, and the federal government designed to protect expunged, sealed, and legally confidential records.
3. Consider federal jurisdiction regarding the private industry sale of juvenile records and create regulatory and statutory suggestions to prevent violation of state and federal prohibitions against the disclosure of expunged, sealed, or confidential information in interstate commerce.
4. Develop goals for technical assistance, publications, and grant funding in this subject area.

RESEARCH AND PUBLICATIONS

BACKGROUND:

An important role that OJJDP plays in leading juvenile justice and delinquency prevention efforts across the nation is supporting and disseminating relevant fundamental research, research-to-practice, and data collection that helps to inform states and practitioners about effective, evidence-based juvenile justice practices and outcomes. In addition, gathering and disseminating information about strategies that have proven successful in states, territories, or jurisdictions, and lessons learned in implementing such efforts through publications and providing technical assistance, helps support the development of a “learning network” that can spread best practices and help ensure that youth outcomes are driven less by where they live and more by what works.

RECOMMENDATIONS: The Research and Publications Workgroup recommends that OJJDP:

1. Again encourage standardized definitions and collection of data by the states.
2. Create a database of existing and past OJJDP-funded projects and make it accessible to states, territories and jurisdictions.
3. Focus research on the impact of trauma on juvenile delinquency. Specifically, the group recommends that research be developed on whether disproportionality exists in the diagnoses children, leading to trauma symptoms being missed in favor of a behavioral disorder more associated with delinquency.

LEGISLATION

BACKGROUND:

No piece of legislation has more impact on the future of juvenile justice than the Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP). With the introduction of Reauthorization proposals in the Senate and House, we believe it is incumbent on the FACJJ to consider that proposal and provide recommendations in a manner consistent with the FACJJ charter and by-laws. To that end, the Legislation Workgroup solicited input from states on selected aspects of the Reauthorization proposal(s) and subsequently approved the recommendations noted below.

RECOMMENDATIONS:

Primary Recommendation: The Federal Advisory Committee on Juvenile Justice (FACJJ) reaffirms its support for the reauthorization of the Juvenile Justice Delinquency Prevention Reauthorization Act (JJDP; or “the Act”) with sufficient funding to support the vision and charge to the Office of Juvenile Justice and Delinquency Prevention Program (OJJDP) and jurisdictions included in the Act. Related to specific components of the proposal as we understand them, the FACJJ approves the following position statements:

1. **Phase out the Valid Court Order (VCO) exception that permits the secure confinement of status offenders.** FACJJ Position: SUPPORT – While extreme situations may remain an issue in some jurisdictions, the FACJJ supports phasing out the VCO exception and providing support and resources to help jurisdictions develop alternatives that can address their concerns.
2. **Increase data collection and reporting requirements.** FACJJ Position: SUPPORT ONLY with INCREASED FUNDING – The FACJJ acknowledges the importance of data collection improvements envisioned in the reauthorization but cannot fully support implementation of these added expectations at this time unless additional funds are provided.
3. **Increase accountability measures for reducing racial and ethnic disparities.** FACJJ Position: SUPPORT – The FACJJ supports continued collaboration with OJJDP and jurisdictions to develop valid accountability measures that will accurately reflect progress toward achieving equity outcomes and receiving additional funding, training, and other technical assistance to help jurisdictions achieve those outcomes.
4. **Require that youth under 18, including those being charged as adults, not be confined in adult facilities at least until conviction, unless certain court reviews are conducted and a court determines the best interest of justice is being served.** FACJJ Position: SUPPORT – The FACJJ supports provisions of reauthorization that place additional limits and/or procedural requirements on placing youth under age 18 in adult confinement facilities.

5. **Change funding related to noncompliance.** FACJJ Position: OPPOSE – The FACJJ supports a compliance process that is geared towards helping all States achieve full compliance. Punitive reductions in funding should be used only as a last resort, and OJJDP should support states in attaining compliance before issuing a funding reduction sanction.
6. **The current proposal includes an allocation of \$159 million for FFY 2016 and two-percent increases per year for the five years of the Act.** FACJJ Position: SUPPORT with AMENDMENT – The FACJJ recommends that total juvenile justice funding be restored, minimally to FFY 2013 levels. Further, the FACJJ recommends that no more than 20 percent of those funds be set aside for specific types of programs (for example, mentoring program support) since large set-asides in conjunction with increased requirements and reductions in overall funding levels severely limit the ability of jurisdictions to implement other reforms and practices that have proven to be effective.
7. **Implement the Act related to strengthening the federal-state partnership.** FACJJ Position: SUPPORT – The FACJJ reaffirms its prior recommendation that OJJDP strengthen its collaboration and communication with jurisdictions related to the interpretation and implementation of regulations derived from the statutes.

ⁱ Use of the term “states”, “jurisdiction” or “jurisdictions” is intended to encompass the variety of public governing entities that are engaged in juvenile justice work, including states, territories, tribal entities, the District of Columbia, counties, and municipalities.