

MEETING OF THE FEDERAL ADVISORY COMMITTEE ON JUVENILE JUSTICE
Monday-Tuesday, April 27-28, 2017

Hyatt Centric The Loop Chicago Hotel
Charles Yerkes Ballroom
100 West Monroe Street, Chicago, IL 60603

SUMMARY

The Federal Advisory Committee on Juvenile Justice (FACJJ) held an in-person meeting April 27-28. The meeting was hosted by the US Department of Justice (DOJ) Office of Juvenile Justice and Delinquency Prevention (OJJDP) and was held in Chicago, Illinois. FACJJ members participated, and the meeting was open to members of the public.

Jeff Slowikowski, *Designated Federal Official*, provided staff support for the meeting. Eileen Garry, *Acting Administrator, OJJDP*, offered an update on OJJDP activities.

Current subcommittees provided updates and, where applicable, recommendations.

Dr. Melissa Sickmund, *Director, National Center for Juvenile Justice*, reported on current statistical trends in juvenile justice.

Melissa Kanaya, *Senior Program Manager, Bixal Solutions*, and Lynn Maia, *Digital Project Manager, Bixal Solutions*, led a discussion of the FACJJ website development initiative.

Charles Moses, *Deputy General Counsel, Office of Justice Programs*, provided an ethics training for the members of the FACJJ.

Lisa Jacobs, *Program Manager, Illinois Program Manager for the Models for Change Initiative, Loyola University Chicago School of Law, and FACJJ member*, and David Olson, *Professor; Graduate Program Director, Department of Criminal Justice and Criminology; and Co-Director, Center for Criminal Justice Research, Policy and Practice, Loyola University Chicago* offered a presentation entitled “Emerging Adults: Challenges and Opportunities for Justice Systems”.

Upcoming meeting planning and logistics were discussed.

DAY 1 – WELCOME, OPENING REMARKS, INTRODUCTIONS

Jeff Slowikowski, *Designated Federal Official (DFO), FACJJ and Associate Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), US Department of Justice (DOJ)*, welcomed everyone to the in-person meeting of the FACJJ and called it to order. He reviewed logistics and the agenda, and he 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.

Meeting participants introduced themselves.

Judge George Timberlake, *FACJJ Chair*, is Co-Chair, along with fellow FACJJ member Lisa Jacobs, of the Illinois Juvenile Justice Commission, which is the Illinois State Advisory Group (SAG). He is a retired judge who served for 23 years and who believes that the FACJJ has provided and will continue to provide leadership around OJJDP's priorities and the field in general.

Judge Amy Davenport, *FACJJ Vice Chair*, is a retired superior court judge (1990-2014) from Vermont. She is a member of the Vermont SAG.

Starcia Ague has been a member of the Washington State Park Council on Juvenile Justice, which is the state SAG, for six years. She recently wrapped up the legislative session for the 46th District for the Washington State Senate.

Aileen Jo Artero is Chair of the Guam SAG. She began her career as a juvenile mentor with her local department of youth, and she was a youth SAG member.

Ashley Beall is a Public Defender in North Dakota, almost exclusively in juvenile practice law. She is a member of her state SAG.

Thomas Broome is a county judge in Rankin County, Mississippi. He has served on the Mississippi Judicial Juvenile Justice Advisory Committee (the state SAG) for about 14 years, having chaired the SAG's Legislative Committee and currently serving as Secretary. Judge Broome also is a member of the Board of Directors of the National Council of Juvenile and Family Court Judges.

Judge Vernon Daniels sits on the Separate Juvenile Court of Douglas County in Omaha, Nebraska and teaches at the Creighton University School of Law. He co-chairs the Juvenile Detention Alternatives Initiative (JDAI) in Douglas County. Earlier in his career, he was a prosecutor; prior to that, he served as a legal aid attorney.

Lisa Jacobs is a former Juvenile Justice (JJ) Specialist and the Program Manager of Loyola University Chicago Law School Center for Criminal Justice. She is the Vice-Chair of the Illinois SAG and previously managed Illinois Miles for Change.

Jane Kallal is Executive Director of the Family Involvement Center in Phoenix, Arizona, which is dedicated to providing families with family, youth, and reentering support, among other things. She has been a member of the Arizona SAG for 12 years.

Kimberly Larson directs the Doctor of Law and Policy Program at Northeastern University. She sits on the Massachusetts SAG and chairs the FACJJ Confidentiality of Records Subcommittee.

Ms. Larson's primary area of research and policy is juvenile justice. She joined this meeting by phone.

Sasha Pellerin has been a member of the New Mexico SAG for 11 years and runs a college writing rescue program for disadvantaged youth in the state.

Melanie Shapiro is a Public Defender on the Baltimore City Juvenile Office of the Public Defender. She is a member of the Maryland SAG.

Paula Smith is a Juvenile Probation Officer of the Washoe Tribe of Nevada and California. She sits on the Nevada Juvenile Justice Commission, which is the state SAG. Ms. Smith currently is a member of the advisory board for the statewide Native American Coalition, which is slated to shut down on June 30.

Penelope Spain sits on the D.C. Juvenile Justice Advisory Group and is a Public Defender specializing in post-disposition representation, particularly for youth transitioning out of secure facilities. She is Co-Founder and CEO of Open City Advocates, a non-profit organization that partners with Georgetown Law School to bring in law students to serve as youth mentors.

Joe Vignati is Chief of Staff at the Georgia Department of Juvenile Justice and is a member of the Georgia SAG. He is a former JJ Specialist and has served in the field for 30 years.

Two non-FACJJ members introduced themselves:

Eileen Garry, *Deputy Administrator, OJJDP*, currently is serving as the Acting Administrator of the office. She is entering her 40th year serving OJP.

Melissa Sickmund is Director of the National Center for Juvenile Justice, the research division of the National Council of Juvenile and Family Court Judges. She has been at the center for 30 years; prior to that, she worked at the Bureau of Justice Statistics in Washington, D.C. for OJJDP.

Greg Parks joined by phone while the meeting was in progress.

Chair's Opening Remarks

Judge Timberlake expressed his appreciation for OJJDP's support and for the opportunity to meet outside of Washington. He thanked FACJJ members for encouraging their SAGs to complete the recent survey, which garnered two-thirds representation and would be used to provide guidance to the FACJJ in its advisory role to OJJDP.

Judge Timberlake pointed out the value of the ethics training that was to take place on Day 2 of this meeting, noting that being perceived as leaders who take ethics seriously is more important than ever.

DAY 1 – OJJDP UPDATE AND REMARKS

Eileen Garry, *Deputy Administrator, OJJDP*

Ms. Garry began by soliciting requests for topics from FACJJ members that she would make sure to address during her remarks. Issues raised were LGBT Subcommittee recommendations, regulations, reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP), increased transparency of client data, and new membership.

Ms. Garry's Role and Priority

Ms. Garry more fully introduced herself, sharing that she began working for OJJDP in 1978. She moved to the Bureau of Justice Assistance (BJA) on September 11, where she managed and oversaw the Public Safety Officer Benefits Program, working both at Ground Zero and the Pentagon. Ms. Garry then reorganized and handled emergency operations after Hurricanes Katrina and Rita, helping local authorities rebuild their criminal and juvenile justice systems using federal aid. After 15 years at BJA, Ms. Garry returned to serve as Deputy Administrator of OJJDP and now has fully transitioned away from her BJA work.

Currently, Ms. Garry plays multiple roles at OJJDP. Based on her experience, she serves as the Senior Tribal Policy Advisor, overseeing the coordinated tribal assistance solicitation. Also, due to administrative, security clearance, and timing issues, OJJDP lacks an Associate Administrator for the Court Protections Division; therefore, Ms. Garry is serving in that role while the Office of Personnel Management and the Attorney General consider a waiver for bringing aboard the selected candidate, who is a current DOJ employee.

As a Deputy Administrator – her full-time position – Ms. Garry oversees all operations in management for the office, including human resources, budget, administration, policy advisors, the Coordinating Council (or COD), coordination of federal efforts (CFE), and the FACJJ. She was appointed in January to serve as the Acting Administrator until such time that the nominee is confirmed by the Senate and put in place as Administrator. Now that the Deputy Attorney General has been confirmed, the Attorney General is aggressively interviewing all candidates for bureau head positions; it is expected that OJJDP leadership will be in place within about two months. Ms. Garry explained that a hiring freeze remains in effect. The hope is that the normal attrition rate and no new hires will bring the office into compliance with the cap on full-time equivalents (FTEs) required by September 30, 2018.

Ms. Garry noted that there are some things in OJJDP that are working quite well, including outstanding customer service, feedback, and transparency. The office has made incredible strides and works well to move the field forward. Some things need to be addressed and fixed, and Ms. Garry's number-one priority is improving OJJDP's relationship with the states. Low staffing numbers present a challenge.

Ms. Garry has reached out to national organizations and with individual emails and calls to the SAGs to ask that they consider having an OJJDP representative at future SAG meetings. She herself attended the Maryland SAG meeting. The previous month, on a different project in Washington State, her contingency met and worked with the state JJ Specialist and the SAG

Chair. She planned to dial in to the Vermont SAG meeting in May and has plans to be on site for its September meeting. SAGS in Maine, South Carolina, North Carolina, and other states have asked her to participate.

Ms. Garry encouraged SAG members to communicate with the office about support they need and are not receiving. She notes that she relies on the other OJJDP Deputy Administrator, Chryl Jones, and her senior administrative staff, which includes Mr. Slowikowski, for information and feedback.

Proposed Rule

Ms. Garry arrived back at OJJDP after the proposed rule already had been published. She reviewed the draft rule and the more than 380 public comments. She was shocked at what she read in the comments and wondered how the states could feel so negatively about OJJDP. She made a commitment to herself that the staff were going to try to fix the problem. To that end, she proposed that a revised partial rule immediately be released. The Obama Administration was coming to an end, and deadlines for rules to be published in the Federal Register were tight. Given the constraints, Ms. Garry, in consultation with the OJP Office of General Counsel and OJJDP staff, developed quick fixes that would be meaningful and not controversial, and that the new administration could embrace and support once it was in place.

OJJDP published the partial rule and received positive feedback from the states. When President Trump took office, he immediately put a hold on everything for 60 days. Ms. Garry explained that she was hopeful that the Attorney General would release the partial rule within a few days of this meeting.

In the meantime, the office is coming close to being able to circulate a draft final regulation throughout the department for approval. OJJDP checks in daily with DOJ through its office of the Assistant Attorney General, and Acting Assistant Attorney General for OJP Alan Hanson is very patiently involved with general discussions at DOJ and had conveyed the urgency in getting the partial rule published.

Compliance Determination

Ms. Garry noted the importance of compliance determination to FACJJ members in terms of their clients as well as to the office due to the amount of work that must be done to review and analyze the numbers that have been entered into the compliance monitoring tool and to make the compliance determinations.

Data Transparency

Revisions to Guidance Manuals and the Core Protections Division Website

The revised guidance manual is under review at DOJ. Two versions of the manual have been revised; one version is meant to be used if the partial regulations are released, and a second version is meant to be used if they are not released.

OJJDP also is revamping its Core Protections Division website in an effort to provide more transparency and to make it more user friendly.

Compliance Tools

The day prior to this meeting, OJJDP had finalized the Compliance Determination Assessment Instrument (CDAI) that will be used for DMC. The two cleared tools used to determine compliance status – the CDAI and the Compliance Determination Assessment Form – would now be shared.

State's data and Title II applications have been inputted to the system, and the office will make them available to the states.

JJDPA Reauthorization and Appropriation

Both houses of Congress have introduced bills. OJJDP was not given an opportunity to provide comments on either bill, so Ms. Garry ran the legislative process through the OJP Office of Congressional and Public Affairs, which serves as its office of communications, and she provided comments on both bills. The hope is that reauthorization will occur this year. Ms. Garry noted that more important to OJJDP than the authorization is the appropriation. Mr. Slowikowski and she were planning to return to D.C. shortly after this meeting in time for the government spending legislation deadline. Ms. Garry predicted that a short-term resolution would be passed. The appropriation is particularly important, because OJP needs to put a line in Congress's spend plan.

Ms. Garry explained that any new Administration "hits the pause button on activities" while it puts its people in place and ensures a program is an idea, a thought, a process, a philosophy that it embraces. No OJJDP solicitations have been issued, and they remain on hold. The office is hopeful that the solicitations will be allowed to go out. Some solicitations were posted, and a peer review of those applications is also on pause; they are a little further through, but not all the way through, the pipeline.

OJJDP is hopeful that the reauthorization and appropriation "pause button" will be lifted so that the staff can make regulations and get support to the field. OJJDP is a grant-making agency, and a lot of work will need to be done in the few months left in the fiscal year. It is going to be a challenge.

Ms. Garry remarked that the President has laid out his vision for his budget that includes a 3.8% increase for DOJ. The Senate and House will do their part, and a budget eventually will be created. Many programs being considered by the Administration also have a significant impact on OJJDP funding, so staff is monitoring those as well.

Training

Ms. Garry reported that a common thread across her conversations with SAG members is OJJDP's lack of training for JJ Specialists, especially new ones, as well as an overall lack of training. To address that, the office will hold a new JJ Specialist training on June 12, which falls during the week of the Coalition for Juvenile Justice (CJJ) national conference in Washington, D.C. The goal is to reach AJ specialists who are attending the conference, knowing that in-person training is far more effective. The SAG member training will take place the week of September 11, and Ms. Garry will share the exact date as soon as it is finalized.

New Membership

Ms. Garry explained that Mr. Slowikowski would discuss a new membership plan during the meeting that he had proposed and she had approved.

LGBTQ

Ms. Garry addressed LGBTQ activity, sharing that a solicitation OJJDP had posted around this area had been pulled down. The staff saw changes to solicitations that the office was allowed to post. There were subtle changes around the language, in that disadvantaged or vulnerable youth are addressed, but no labels – such as Native American youth, youth of color, or LGBTQ youth – are applied. Language that is allowed includes “vulnerable” and “at-risk” population. It is unclear the direction that this will take once a permanent Assistant Attorney General is in place. Some clarity and direction may be provided at that time; Ms. Garry suggested that members reach out to the new Administrator. She promised that she will alert the FACJJ when she has any deeper sense of the issue.

Discussion

Ms. Garry solicited questions from FACJJ members about her remarks or anything else FACJJ or OJJDP related. She noted that, both as Acting Administrator and when she returns to her permanent position of Deputy Administrator, she will continue to be involved as the senior leadership charged with the FACJJ and the Coordinating Council. She requested that people do not hesitate to reach out to her by phone or email to chat; to ask her questions; or to tell her about what's happening in a state, what they think OJJDP is doing well, and what they think it can do better.

Judge Timberlake asked Ms. Garry to comment on what information or oversight could be provided to SAGs so that they function as designed, adding that he has heard depressing reports from SAG members who feel disengaged.

Ms. Garry expressed appreciation for the feedback and suggested this may be a topic for the September SAG meeting agenda. She will have someone in her office circle back with Judge Timberlake to collect more information and contacts around the issue. She commented that governments in some states do not actively engage with SAGs. The office can continue to highlight any speeches and to make sure that those it prepares for the Attorney General, the Assistant Attorney General, or the Administrator, includes in the remarks success stories about the work it has been doing. It can elevate the SAGs and draw attention to their wonderful work and accomplishments through use of dissemination vehicles such as a highway, a banner, or a splash on the website.

Ms. Garry asserted that it is her job to focus on what is important to the SAGs and the FACJJ, and that communication needs to be a two-way street. She sees a deficiency in the office, particularly around core protection work, in that OJJDP identifies what is not working for a SAG but does not work with the group to figure out together a way to make improvements. She believes that the states know that there is a problem, and she sees it as the office's goal to help them – through training, technical assistance, and peer-to-peer mentoring. If Ms. Garry knows what is happening in the states, she can assist with those connections.

Starcia Ague asked for clarification around when the FACJJ will hear about LGBTQ community issues.

Ms. Garry explained that career leadership people currently are in bureau head roles, and they cannot make a decision that will handicap the incoming leadership. She is hopeful that, once Mr. Hanson is confirmed as either the Principal Deputy Assistant Attorney General or the Assistant Attorney General for OJP, decisions will be released on numerous legislative issues.

Ms. Ague suggested using one of the dissemination vehicles to help the LGBTQ committee members – 18 of whom are not members of the FACJJ – move the recommendations information out to the states.

Ms. Garry will familiarize herself with the recommendations. Mr. Slowikowski has been working with communications staff on how to represent the recommendations and believes something is forthcoming.

DAY 1 – FACJJ CONFIDENTIALITY OF RECORDS SUBCOMMITTEE REPORT AND DISCUSSION

Kimberly Larson reported that the Confidentiality of Records Subcommittee met in April and was scheduled to meet again the Monday following this meeting.

The subcommittee is comprised of the following members:

Starcia Ague
Kimberly Larson
Justin Miller
Dave Rosenthal
Melanie Shapiro
George Timberlake

Based on anecdotal reports indicating that juvenile records potentially are not being protected as carefully as they could be, Ms. Larson and two other two members of the subcommittee – Dave Rosenthal and Melanie Shapiro – ambitiously chose to explore how those records move through state and federal systems, including how confidentiality is ensured, if at all.

The National Crime Information Center (NCIC), as many likely know, is a computerized index of criminal justice information overseen by the FBI and designed to help criminal justice professionals gain information about suspects. The group began by exploring two basic questions using NCIC:

- How is the information received and entered into NCIC?
 - From whom?
 - From where?
 - Under what conditions?

- Under what conditions are records or information released?
 - Who can receive records?
 - What are the rules around how and for what reasons information is entered and pushed out?

The subcommittee did some research to find out what kinds of records are held in NCIC, and Mr. Slowikowski currently is assisting with outreach to the FBI to help the group learn about how the index process works, how the records are held, and perhaps a bit more about what kinds of information are in the subcategories listed on the website. Overall, the subcommittee currently is learning how information is held in NCIC.

Discussion

Judge Timberlake opened the floor to questions.

Judge Davenport asked if the subcommittee also is looking at the process by which information is removed – that is to say, the degree to which public information that is initially allowed to be included on the NCIC database then either is expunged or becomes confidential. She noted that she often hears that, especially in the NCIC data, juvenile charges remain in the database even if the record gets expunged or becomes confidential.

Ms. Larson assured Judge Davenport that the subcommittee would include that element in its research.

Melissa Sickmund mentioned two resources for the subcommittee to explore:

- In 2014, the [Juvenile Law Center \(JLC\)](#) in Philadelphia released *Juvenile Records: A National Review of State Laws on Confidentiality, Sealing, and Expungement*, an in-depth study of state laws around confidentiality, sealing, and expungement; the study scores every state on its handling of records.
- Based in California, the [National Consortium for Justice Information and Statistics \(SEARCH\)](#) conducts research for the Bureau of Justice Statistics (BJS) on criminal history depositories in detail, including a report that covers all types of collateral consequences, including all the licensing that someone with a record of conviction cannot get in a state. One can search the [National Criminal Justice Records Service](#) to find SEARCH reports.

Ms. Garry offered a presentation on this subject for the next FACJJ, should the committee want one. Judge Timberlake asserted that such a presentation would be helpful, along with information on the current situation by state.

Ms. Garry asked the subcommittee to provide a list of questions it would like addressed in such a presentation to ensure that it gets the information it seeks.

Lisa Jacobs noted the value in understanding state law around the subject of confidentiality on the one hand and federal policy and practice on the other. As an example, much work is being done in Illinois around sealing and expungement of records, but if those records are still available and widely accessible at the federal level, the state-level work will not have the

intended consequence. Therefore, it will be very helpful to understand how information goes into the system and whether it can ever be pulled out because of automatic expungement due to statute or judicial order.

Ms. Sickmund noted that expungement does not solve the issue of availability of records once they have been shared on the internet.

Melanie Shapiro suggested that anyone with questions they would like the subcommittee to address send them by email to her or Ms. Larson prior to their Monday, May 1 call. She added that the group's main concern matches Ms. Jacobs's point: Every state has its own confidentiality and expungement laws, but there are certain things that must be reported to the Federal Government. One can look at state law and see what happens with records, but how does that then flow to the federal system and what happens to the record? Once it is in the federal database, is there even a way to have it removed? These are the questions to which the subcommittee is hoping to find answers.

Jeff Slowikowski explained that the FBI is very eager to provide information; however, it has been a challenge to identify the correct contact person. He is getting closer, and he pointed to the value of providing specific questions prior to a subcommittee meeting with an FBI representative.

DAY 1 – FACJJ RESEARCH AND PUBLICATIONS SUBCOMMITTEE REPORT AND DISCUSSION

Lisa Jacobs thanked the members of the Research and Publications Subcommittee for their flexibility regrouping in order to be responsive to changes at the federal level.

The subcommittee is comprised of the following members:

Thomas Broome
Vernon Daniels
Wendy Henderson
Lisa Jacobs
Aris Johnson
Jane Kallal
Dave Rosenthal
Paula Smith
Tawny Spinelli

In January, the subcommittee shifted its focus to youth with acute needs who may or may not also have risks for criminal or delinquent conduct. Some examples of such youth are those who are trafficked in various ways, including sexual exploitation; youth who engage in high-risk drug use, with particular focus on opioids and methamphetamines; youth who run from home or from placement; homeless youth; and LGBTQ youth who are exploited, maltreated, and/or pushed out of their homes or from placement. The group is aware that these are not distinct groups but that they overlap and interact in a variety of complicated ways.

The subcommittee knows that its foremost focus is on maintaining compliance with JJDPA and ensuring that status offenders are not detained. It is delving more deeply in order to make sure that a policy is in place that encourages and hopefully requires humane and fair and effective treatment of youth with acute needs. As the late Judge Lovett of Fulton County, Georgia, noted, the very survival of these youth is at stake in the justice system. Often, decisions have to be made very quickly.

Since it refocused in January, the subcommittee has had two presentations – one from the National Center for Youth Law (NCYL, pronounced “nickel”), located in Los Angeles and doing work in that city and statewide in California; and the other by Mike Chavers who, for over 25 years, worked at Indian Oaks Onarga Academy, an organization providing primarily residential care of youth with acute needs in Illinois. He now is Director of Yellowstone Boys and Girls Ranch in Montana. Ms. Jacobs provided highlights of the two presentations:

NCYL Presentation Highlights

- First Responder Protocol: NCYL focuses primarily on trafficked youth. The subcommittee had asked the presenters to identify the elements of their work and lessons learned, and it learned about first responder protocols that NCYL has developed to ensure that law enforcement and other types of first responders are able to identify a young person with acute needs – again, primarily trafficked youth – versus a strict criminal justice approach that focuses on an offense that could be charged. That protocol calls for, once that youth is identified, immediately bringing in an advocate with experience, training, and skill to handle that youth and to immediately start to solicit the youth's voice, experience, and input around about what happens next. NCYL recognizes that an immediate crisis response is critical and that youth are at a high risk to run during those first interactions. Next, the protocol calls for starting to build a plan to provide meaningful services that address what is going on in that youth's life, and what is presenting risks – again, as opposed to a solely criminal justice focus.
- Detention Center Protocol: The NCYL presenters also spoke to the subcommittee about its detention protocol that has it working with detention centers to identify youth who often go under the radar for the issues noted above, then to use some of these same approaches: getting an advocate, building the youth voice, and starting to figure out an individualized plan for that young person.
- Victim Witness Testimony Protocol: NCYL also presented its victim witness testimony protocol with young adults. Particularly in trafficking cases, youth are asked to be witnesses in prosecution of the traffickers, which places these vulnerable and frightened youth at very high risk for harm; they also are more likely to run. Therefore, NYCL works with prosecutors to develop a protocol for when youth are asked to be witnesses in cases.
- Statutes Relating to Trafficked Youth: Related statutes have been put in place in California:
 - A 2014 statute clarifies that trafficked youth can be served by the child welfare system whether or not the person or people who are placing them in those

situations are parents or caregivers. The statute creates a County Special Enforcement Team (CSET) program with funding for counties to work on trafficking.

- A bill passed in 2015 requires counties that opt in to develop and implement first-responder, detention, and service-stage protocols.
 - A 2017 bill bars law enforcement from arresting sex workers who are under the age of 18 on soliciting or engaging in prostitution and loitering-with-intent charges.
- Research on Placement Information: NCYL recently has launched a research project to gather and articulate information about placement, including what is required in terms of placement and services for youth with acute needs. They already have harvested some observations from this work, including that providers tend to be very leery about working with youth with acute needs. These youth are risky for providers to take on, challenging, exhausting, and requiring of a lot of resources. Expense can be incurred if a contract with the state includes penalties for bad outcomes or running, and this affects the bottom line. Also, staff ratios seem to be higher. The goals are to gather information on issues around providers serving youth with acute needs and to develop some observation of best practices.

Michael Chavers Presentation Highlights

- Mr. Chavers emphasized that youth with acute needs are worth the work, despite the challenges in working with them. He reported that that both his experience and the facts show that these youth are worth serving and that many of them can be saved, so to speak. It is important to think along the line of a risk-reduction model: We may not have the kind of outcomes that we would all hope for every child, but we can reduce the impact of the risks that they face and really improve their lives for the long run, as well as the lives of their children and families.
- Mr. Chavers also emphasized that we do not know who can be saved at the beginning. You never know when you can have success, and you might not know until years later. Some youth leave programs and return 5 or 10 years later and say, “I’m okay now and I’m stable, and it’s because of what happened in this really vulnerable period in life. I may not have known it then but here’s when I am now.” Mr. Chavers added that giving up on acute-needs youth has dire consequences around watching systems give up on them.
- Mr. Chavers’s message: Do not give up. Stay at it. It is worth it. Even if you do not care about the outcomes of these youth, even though it is expensive to create the services, the costs are much higher in the long run if you give up. He also mentioned the ever-present goal of creating a healthy community and a family that work for the child. Education is critical, and meaningful connections to school systems are very challenging for this group. In Montana, for example, state law cuts off education funding at 18; this significantly undermines the ability to help these children.

- Mr. Chavers went on to mention that authoritarian approaches and provider culture will not work with this population, and we need funding policy that emphasizes highly skilled staff and small ratios. Again, while it looks expensive in the short term, it will pay off both fiscally and in terms of individual and community outcomes in the long run. Therefore, it makes sense to invest in youth with acute needs beyond age 18, because no one, including these youth, is done developing at that point. It is necessary to make sure that our systems and funding policy allow systems to support these youth into and through emerging adulthood and into adulthood.

The subcommittee next will explore what factual findings it can make from these presentations and from the available research and literature. Then, it will analyze the implications of those findings for federal policy, practice, and funding; state policy, practice, and funding; and SAG work.

Discussion

Judge Davenport applauded the subcommittee's efforts, Ms. Jacobs's report, and the impressive presentations by NYCL and Mr. Chavers. She remarked on Vermont's treatment of runaway youth over the past 40 years, noting that a runaway cannot be charged with a delinquency. Runaways are treated as children in need of parent supervision, and parents are involved in the adjudication process. Judge Davenport suggested that treating runaways that way has led the state system to be far more service oriented; if detention is not an option, it creates the need for the state to identify alternatives in terms of placement, as some of these kids need significant amounts of services. In states where prosecutors are being dealt with in the child protection system, they understand the reality of drug use and are willing to not charge knowing that someone is supervising and is working to find the best placement. In other states, as noted by Judge Timberlake, even a live statute does not ensure a shift in mindset.

Judge Davenport offered to provide the subcommittee with a representative from Vermont who knows a lot about this area and about how this system has evolved.

Ms. Sickmund commented that the American Bar Association (ABA) has taken the lead on a project that deals with homeless youth, legal needs, and the law. Also, CJJ just released policy guides on children who are homeless and the juvenile justice system. Ms. Sickmund believes that the ABA project's focus is far broader than that of CJJ. However, CJJ might be another group with which to connect and to encourage lawyers in states to become involved.

Melanie Shapiro asked the subcommittee to ponder where the advocate role begins, its limits, and how it can be expanded or narrowed given the particulars of a case or jurisdiction.

Ms. Jacobs explained that the California advocates were not attorneys and were, in fact, survivors who had credibility with youth and could help keep them from running.

Joe Vignati added the need to know the funding availability, as his state moved to a Chance model in 2014 and still struggles with where services are to come from for youth who come through the child welfare side and are not commercially sexually exploited. Also, rural areas

have fewer services, providers, and shelters. Judge Davenport acknowledged the long mindset transition required when the law is changed.

Judge Broome noted the additional challenge of getting acute-needs youth, particularly sex trafficking victims, to remain in a setting long enough to receive services and be provided safety without being confined.

Judge Timberlake remarked that Mr. Chavers is honest in saying whether a child needs treatment in his facility and whether that treatment needs to be as long as recommended. He also expressed the value in outside voices from those on the front lines or who offer therapeutic approaches for researchers, as they really inform the FACJJ's outcome.

DAY 1 – FACJJ TRANSITIONING YOUTH SUBCOMMITTEE REPORT AND DISCUSSION

Penelope Spain presented the Transitioning Youth Subcommittee report, thanking the members of the subcommittee for their work as well as Melissa Kanaya and Maegan Currie for their support of the group's research effort.

The subcommittee is comprised of the following members:

Starcia Ague
Ashley Beall
Wendy Henderson
Jane Kallal
Mary Beth Kelly
Sasha Pellerin
Penelope Spain
Tawny Spinelli

Ms. Spain called the members' attention to the draft memo that the subcommittee had provided to the FACJJ in advance of this meeting, asking that they be sure to review it before the subcommittee's report the following day. She expects that the memo will be finalized soon, and she solicited input from the full FACJJ.

Ms. Spain reported that the subcommittee's work began from the following two basic premises:

- The supports for youth transitioning out of the juvenile justice system should mirror those for youth transitioning out of the child welfare system, in large part because significant overlap exists between the two systems regarding high-risk, high-need, vulnerable youth populations.
- These young people are on the cusp of adulthood, which begs the need to incorporate best practices being implemented around the country for adults transitioning out of secure facilities.

Ms. Spain then reviewed the memo.

The memo's first two pages lay out the landscape for the subcommittee's work, including defining "transitioning youth" and focusing recommendations on the young people who are transitioning out of more sustained interaction with the juvenile justice system. The subcommittee recognizes that that such interaction often causes a great deal of harm in and of itself; this harm includes abuse and neglect, and it can create mental health needs. These youth also have education needs and family support issues.

The subcommittee does not plan to involve itself in the work of other subcommittees that very well may be relevant to transitioning youth.

Discussion

Jane Kallal, a subcommittee member, expressed her belief that family choice for transitioning youth should be included in the description.

Paula Smith commented that elimination of court fees essentially is a non-issue in her tribal work, as she rarely requests the \$10 administrator assessment fine. She was pleased the see trauma and violence being noted as risk factors for youth, as well as education and learning disabilities, which often are undiagnosed and are characterized as behavioral problems.

Vernon Daniels noted the existence of the Bridge to Independence program that provides a stipend toward health insurance to youth up to age 21. Also, he mentioned the [Opportunity Passport](#) program, which provides opportunities for transitioning youth to save money and learn financial skills; participants have paid for cars, college tuition, and other assets.

Ms. Spain expressed her appreciation for the best practices provided by Judge Daniels, explaining that the goal is to include footnotes for each recommendation bullet point.

Judge Davenport suggested that driver's education be included as a bullet point under Recommendation #2.

Lisa Jacobs suggested that the recommendation provide more pointed language that states that anyone being released from secure custody must have a state ID in her/his hands. She added that the challenges around this in Illinois led the state to fund two reentry pilot projects to clarify and implement a process for successful transition. In addition to the obvious issues around services, the lack of a driver's license creates an inability to receive medication or apply for employment. Recently released youth who get assessed by police and cannot prove their identities often end up back in custody. An added challenge has been to get the departments of correction and the departments of juvenile justice to ensure youth get state IDs.

Melanie Shapiro noted that Maryland also has an arrangement that helps transitioning youth obtain state IDs.

Ms. Spain asked if anyone has developed a workaround to the issue of being unable to physically get kids out of the building to go to motor vehicle services so that precious time is not lost and the lack of a state ID does not jeopardize reentry.

Joe Vignati explained that the Georgia Department of Juvenile Justice (DJJ) has an interagency agreement with the state Department of Drivers Services – another executive branch – that allows youth in secure confinement to get their photo ID, driver’s license or otherwise, prior to their release. The DJJ has absorbed the cost, and the agreement has been in place for several years.

Melissa Sickmund recommended that the subcommittee learn about OJJDP’s Juvenile Justice Reentry Measurement Standards project, led by PbS approximately one year ago. The project developed correctional, detention, and community-based standards around facility issues. It currently is developing performance standards for reentry and has a set of draft standards. Ms. Sickmund suggested that the FACJJ ensure that its recommendations align with those of the PbS project. Her understanding is that pilot programming of the draft standards will continue through the end of this fiscal year. In the meantime, OJJDP staff will connect the subcommittee with Kim Godfrey at PbS and OJJDP Social Science Analyst Ben Adams.

Ms. Shapiro noted the likelihood that updated individualized education plans (IEPs) are needed for transitioning youth, as those with IEPs are able to stay in school beyond age 18; this may be a better option for some of the older transitioning youth who have special needs. This could be added to the recommendations.

Ms. Spain requested feedback on the basic premise fueling Recommendation #1 that the supports in the child welfare system could be translated to the JJ system. She sought clarification about whether such supports were offered to all youth in the child welfare system.

Judge Timberlake commented that tiers of support exist in that system in Illinois.

Ms. Spain asked, assuming that holds true for other states, if the recommendations should be written in a way that refers simply to “supports for youth in the child welfare system”.

Judge Davenport suggested including language specific to detained youth in the recommendations and adding a point to either the introduction or conclusion that the recommendations should not apply only to that population.

Judge Timberlake added the importance of making the point that the JJ and child welfare systems should be coordinated.

Judge Daniels noted that, because there is not a legal custody shift, non-detained youth still have more parental supervision than governmental. However, a governmental agency has more control around services and supports for detained youth, if custody has shifted.

Judge Broome noted Judge Timberlake’s point, asserting such custody and control issues will depend on a particular state’s law. Also, physical custody does not always equal legal custody. Federal and state laws can create additional barriers that need to be taken into consideration when developing the recommendations.

Ms. Sickmund suggested looking into a Massachusetts model, in which youth who age out of the system can voluntarily select the option to continue to receive services. The state is funding college tuition for some of them. Ms. Spain and Judge Davenport reported that D.C. and Vermont have similar models.

Judge Davenport wondered whether all of the education-related suggestions should be grouped together as its own singular recommendation. Ms. Spain agreed with that idea.

Judge Daniels offered a footnote to Recommendation #2: The [College Possible program](#) has been very effective in providing scholarships for post-secondary education, with mentoring beginning in junior high school.

Ms. Spain explained that the subcommittee has chosen to focus on placing the onus of taking responsibility for young people on the state and federal agencies; in many cases, the agencies may be partnering with College Possible or any of the other superb nonprofits and/or the numerous foundations supporting this work that the group discovered in the research supported so well by Ms. Kanaya and Ms. Currie.

Judge Timberlake questioned if programming compendia, both general and justice system-specific, could be used as references. Perhaps someone in the Department of Education might have knowledge of such compendia.

Mr. Slowikowski offered that OJJDP staff could reach out to Department of Education contacts to identify someone who could provide that information.

Judge Broome noted that Tennessee has a representative from higher education institutions on its transition team.

Ms. Spain solicited suggestions of supports for specific needs of youth in the JJ system to add to the lists under each recommendation, beyond the aforementioned government-issued ID (driver's license or other). Suggestions included:

- The ability to access services by individual choice
- A natural support system within the family or community
- Options for sealing of juvenile records as youth exit the system
- Parenting consultation
- Building of credit history (responsibility for finances)
- A counseling component as youth re-integrate to their family homes (both individual and family counseling)

Ms. Spain then reviewed the third and fourth recommendations for the FACJJ; these focus on advocacy and interagency collaboration, respectively. She will make the advocacy recommendation the first of the recommendations.

Ms. Jacobs suggested adding language to Recommendation #2 about transitioning away from supervision, control, and reliance to a community-based context. She expressed her concern that parole officers are placed in the position of teaching children life skills.

Ms. Spain agreed, adding that agencies could be brought to understand that, while they are responsible, they do not need to deliver the supports themselves.

Ms. Kallal suggested adding peer mentors to the advocacy recommendation.

Judge Davenport brought up the idea of adding performance measures to the recommendations, as these youth need to be tracked to determine outcomes. Such measures will ultimately help in obtaining program funding. It was noted that it has been challenging to collaborate with other agencies around performance measures.

Judge Timberlake remarked that contractual obligations can be used to ensure that measures are tracked.

Ms. Sickmund suggested that language could be crafted that expresses that states should be concerned about outcomes and therefore want performance measures in place, and that agencies should share outcome data.

A conversation was had about concerns around youth registry. It was noted that many young people do not know they need to register, or they do not know how or when to register. Framing the recommendations correctly is paramount, particularly given the view of JJ-involved youth in our society.

FACJJ members are encouraged to send any further ideas related to the recommendations to the subcommittee after this meeting.

DAY 1 – LEGISLATION SUBCOMMITTEE REPORT AND DISCUSSION

Judge Davenport reported that the Legislation Subcommittee has been working since September 2016 to gather responses from the states, through the SAG Survey, about the issues on which they have been working. She thanked Mr. Slowikowski and Ms. Kanaya for their support of this project.

The subcommittee is comprised of the following members:

Aileen Jo Artero
Ashley Beall
Thomas Broome
Tim Brurud
Vernon Daniels
Amy Marie Davenport
Cheryl Massaro
Melanie Shapiro

Clarence Thomas
Joe Vignati

Goals of gathering information through the survey included informing the FACJJ, providing results back to the states to inform them if other states were working on similar issues, and getting a sense of what precise JJ activity is happening and where it is happening.

The survey was sent out in February with a response deadline in April. Thanks to regular reminders by Mr. Slowikowski and to outreach by Judges Davenport and Timberlake and Mr. Slowikowski to SAG Chairs and JJ Specialists in the states that had not responded, approximately 60% of states and territories responded to the survey.

Survey Results

States are working hard on a variety of issues. Below are explanations of the data around each of the nine questions asked in the survey:

Question 1: Reducing Adjudication of Youth in Adult Court through Expansion of Family/Juvenile Court Jurisdiction

Judge Davenport reported that half of the states that responded are focusing on this issue. Jurisdictional issues range widely among the states. Judge Davenport noted that Connecticut, which did not complete the survey, had taken the lead a few years ago and passed legislation requiring that the vast majority of offenses had to first be filed in juvenile court. A process was laid out for waiving up offenses. Vermont followed suit last year by passing legislation that will be implemented over a three-year period. New York and Illinois also are working on this issue. Just six states have lower upper ages (17 instead of 18) for juvenile adjudication.

One piece of pending legislation of particular interest is in Massachusetts, where the juvenile jurisdiction has been expanded to 21. A similar discussion is going on in many states.

Hawaii responded that it is not focusing on jurisdiction but instead is focusing on keeping youth out of the system.

Question 2: Implementation of Evidence-Based Practices (including assessment for risk and/or mental health issues)

Melanie Shapiro reported that 26 states that have either a recent accomplishment, implementation of an initiative, or progress. Five states use evidence-based practices (EBP) as criteria for reviewing grant proposals for funding; these states include Arizona, Delaware, Florida, Missouri, and Montana. The University of Utah review all the grants in that state for EBPs, and then it follows up, evaluates, and conducts technical training as necessary to support grantees. Maryland manipulates EBPs to fit the acquirer, thereby rendering it no longer a true-to-standard EBP.

Kentucky passed legislation in 2014 mandating the use of EBPs within programs and services. State agencies are now using EBPs relating to assessments and to address mental health issues.

Vermont is one of four states that is implementing a statewide curriculum developed by the Center for the Study of Social Policy known as Youth Thrive. Youth Thrive is an evidence-informed lens for assessing current efforts in making changes to the policies, programs, services, and systems that impact young people, particularly those involved in public systems.

Ms. Shapiro suggested that an interesting follow-up might be for the SAGs to have to identify an EBP and provide results to learn and show what is working.

Lisa Jacobs wondered in what other ways can SAGs advance EBP, whether piloting a program or initiative or engaging in policy work. As the federal grant has been declining, Illinois is not able to make a big dent in service provision by direct funding.

Question 3: Disproportionate Minority Contact (DMC)

Ms. Shapiro shared the following:

Delaware has a civil citation program with the goal of keeping youth out of the system. It is not clear how this dovetails with DMC.

The Illinois SAG's DMC Committee has held community forums to promote education and advocacy around racial and ethnic disparity. The forums work around the school-to-prison pipeline and law enforcement relationships. It is set to pilot a DMC learning collaborative, and the committee will partner with two national DMC technical assistance providers to convene a DMC code word made up of five JJ council sites that will work closely together on DMC reduction. Many juvenile council representatives had expressed curiosity about how other jurisdictions address DMC, and the SAG anticipates that the pilot project will address those curiosities and allow system stakeholders to learn from one another.

North Dakota sent teams from two of its larger jurisdictions with the highest DMC rates to attend the Georgetown University Center for Juvenile Justice Reform's Reducing Racial and Ethnic Disparities in Juvenile Justice Certificate Program. They will develop a capstone project for implementation in their state.

New Hampshire has been providing effective police interactions with youth to law enforcement for several years. The state developed a "mirror project" designed for youth, which mimics the Effective Police Interactions with Youth program. Law enforcement representatives are facilitating the project with eighth graders in four junior high schools, as well as with youth at Boys and Girls Clubs and YMCAs. Uniformed law enforcement officers are facilitating this project at a safe training school. And, a police standard training council is ready to administer both trainings to law enforcement agency officers. Having the police work directly with children is a unique approach.

Utah developed a school-based law enforcement training curriculum with the purpose of reducing arrests. The curriculum defines resource officer and school administrator roles when it comes to youth requiring adult attention. The state is focused on the school-to-prison pipeline, again cooperating with children, involving schools, and having police attend training.

In 2016, the Utah Legislature passed a bill requiring many elements described above, and the Utah SAG is working with the state Board of Education to complete the curriculum and determine the best way to provide the training statewide.

Question 4: Truancy

Ashley Beall explained that one third of respondents reported no immediate plan on this issue, while another third reported implementation being in progress. She shared what she described as positive: Colorado noted the implementation of four pilot programs, including three problem-solving programs and one prevention program that it continues to evaluate.

In Mississippi, the SAG responded by saying that truancy is addressed by the Department of Education. Judge Broome clarified that the state justice system has a fairly aggressive truancy program.

Pennsylvania recently passed legislation that sets requirements for parent participation in school attendance plans and provides broader discretion to the community agencies to address child's child- and family-specific issues in each case.

Question 5: Shackling Policies

Ms. Beall shared that Hawaii "does not believe in such a method of caring for youth and young adults". In Illinois, Maine, Utah, and Wisconsin, shackling is allowed in only specific situations; Wisconsin uses the least assertive approach of the four states. New York records the use of an extensive assessment to determine if restraints are warranted; shackles are always removed in court unless circumstances require them. The SAG reports there are specific policies and procedures in place to guide staff regarding this issue.

Ms. Shapiro suggested that one subject on which the survey could focus in the future on shackling during transportation, around which a movement has begun. California, Maryland, and Vermont have taken on this issue. Ms. Spain commented that she transports her D.C. clients home when they are released from secure placement so that they do not have to travel shackled and handcuffed. She added that such transport negatively impacts reentry, as the last message the child receives is that s/he is a criminal.

Question 6: Reduce Detention of Status Offenders

Judge Broome reported that Colorado is using a top-down approach to reduction of detention of status offenders, relying on the power of the state supreme court to endorse best practices.

Florida has been using the Florida Network, a nonprofit representing 31 agencies providing something along the continuum of care built around strengthening the family.

Hawaii has implemented a pilot program – Ho`opono Mamo – which diverts status and first-time nonviolent offenders from even entering the JJ system with the issuance of civil citations. If the youth successfully completes an approved plan, the citation is withdrawn.

The Kentucky SAG funds several truancy prevention sub-grantees, and North Dakota has reported long-term success since 1989 with an attendant care program providing non-secure supervision for low-level offending youth.

Wisconsin recently was awarded a technical assistance grant from the Vera Institute of Justice as part of the Status Offense System Reform Project.

Question 7: Confidentiality of Juvenile Records

Judge Broome reported that Delaware recently evaluated and revised its confidentiality rules.

Illinois released its 2016 report, *Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois*. The state is working to draft model legislation to improve confidentiality protections for juvenile records and to create mechanisms for automatic expungement of certain records.

Massachusetts has pending legislation to provide for sealing and expungement of juvenile records. And, Maine has funded a study to explore collateral consequences in the JJ system; this includes the confidentiality and expungement of juvenile records. A report was to be released in April.

In Mississippi and Wyoming, juvenile records are confidential. Judge Broome noted that Mississippi legislators introduced a bill earlier this year to open up juvenile records, allowing the County Board of Supervisors to disseminate the information to a newspaper, public radio station, or TV station at its discretion. Fortunately, the bill was defeated.

New York, the individual record is purged, and the associated fingerprints are destroyed with no criminal conviction between the ages of 16 and 21 or three years after the juvenile is released from placement, whichever is later.

Ms. Spain expressed disappointment that D.C did not respond to the survey and reported that it has created an app that helps young people to file for expungement.

Judge Timberlake and Lisa Jacobs mentioned the Mikva Challenge Expunge.io, a web app that allows youth to find out if they qualify to expunge their criminal records and that links youth to *pro bono* lawyers.

Dr. Sickmund noted that Pennsylvania is maintaining its records for research purposes, which has value in tracking recidivism, for example.

Question 8: Reduction of Gang Activity

Joe Vignati reported that 31 SAGs responded to this question, and only seven states are actively engaged in activities to reduce gang activity or are implementing an initiative in that area. He noted the challenge around defining and measuring “gang activity” and explained that a number of SAGs said they do not have a gang problem. Almost 55% of respondents have no immediate plan to engage in activity around this.

Florida has a very in-depth process, in which any youth who comes through the JJ system undergoes a comprehensive screening during intake to determine her/his level of gang involvement. The documentation around this is highly defined, and the SAG's response to this question is very detailed.

Massachusetts also has done quite a bit of work around gang activity and is funding the Safe and Successful Youth initiative that focuses on outcomes related to reduced recidivism. Two non-profit programs in the state are specifically designed to deal with youth who are heavily involved with juvenile justice and gang membership – the United Teen Equality Center and Roca, Inc. Both organizations had proven results in working with high-risk youth and gang members.

Question 9: Projects Related to Juvenile Justice Data Sharing

Mr. Vignati reported that, of the 32 SAGs that responded to this question, 22 either have an ongoing initiative around juvenile data or share recent accomplishments. Some highlights:

- Delaware and Hawaii each have statewide JJ information systems, and they readily share data.
- The Georgia Department of Juvenile Justice has worked with Judge Lovett, a judicial representative on the [Juvenile Data Exchange \(JDEX\)](#). JDEX holds a wealth of information on working with juvenile courts and combining local juvenile court records with state records.

'Other Issues' Question

Judge Davenport explained that another question asked SAGs to report on issues that had not been polled. Answers included girls initiatives, juvenile justice reform, and restorative justice RJ. Maine is working to become an RJ state.

Judge Timberlake noted that becoming a restorative justice state is a worthy endeavor and added that the Illinois SAG will release a report on RJ legislation around the country and recommendations later this year. Chicago is developing a community forum on restorative justice principles.

Activity and Interest

The states' interest and activity around the nine polled issues ranged from records confidentiality at the low end to DMC at the high end. Judge Davenport raised the point that more or less activity and interest does not necessarily indicate the importance of an issue to the FACJJ. In fact, lower interest and activity around an issue on the part of states may translate to the need for education and assistance.

Priorities: Federal Legislation

Finally, SAGs prioritized a list of pending federal legislation (besides JJCPA reauthorization, which the subcommittee assumed would be the highest priority across the board) provided in the survey. The highest priority, by a wide margin, for the SAGs is, unsurprisingly, Juvenile Accountability Block Grant reauthorization. This is followed by, in order, the CONNECT for Health Act, the Youth Promise Act, and the REDEEM Act. Funding is the biggest concern by far.

Discussion

Judge Davenport led a discussion around the meaning of and noticeable trends in the survey results. The following issues and ways of viewing and presenting the material were raised:

- Diversity of responses and solutions on a range of issues
- Amount of work going on in the states
- Need for common definitions for measurement
- Identifying key challenges and opportunities for the near future
- Sending issue information and guidance to the SAGS regularly/newsletter to include FACJJ activities
- Supporting one another and sharing strategies and best practices
- Providing SAGs with the survey results
- Asking SAGs to develop outlines of their accomplishments/providing them with a blueprint for organization and action, as well as contacts for further discussion and assistance
- Asking SAGS around what issues they want to engage and supporting that
- Develop the FACJJ website to share stories and provide useful information
- Updating the SAG contact list
- Reach out to the states that did not respond to the survey/follow up with states that did respond

DAY 1 – CURRENT STATISTICAL TRENDS IN JUVENILE JUSTICE

Melissa Sickmund, Ph.D., *Director, National Center for Juvenile Justice*

Dr. Sickmund provided an overview of trends in juvenile justice and ways of staying current with constantly changing information, and she shared specific JJ-related data.

The OJJDP National Juvenile Justice Data Analysis Program

The [Statistical Briefing Book \(SBB\)](#) and [Juvenile Justice GPS \(Geography, Policy Practice & Statistics\)](#) are elements of OJJDP's National Juvenile Justice Data Analysis Program. The online SBB was born from a previous project, has been in existence since approximately 1990, and supports many of the statistical bulletins and snapshots. Another resource is the Juvenile Offenders and Victims series, with volumes produced in 1995, 1999, 2006, and 2014. The first volume became the organizational framework for the SBB.

Current Trends: Juvenile Victimization and Offending

Valid Court Order Exception (VCOx)

Dr. Sickmund shared some background on the VCOx, noting that status offenders (more than 40%) were more likely to be detained than those in delinquency cases before the existence of OJJDP. This percentage improved with enactment of the JJDPA in 1974. The 1983 VCOx addition to JJDPA – prohibiting secure detention of youth who have not engaged in behavior that would be a crime for adults unless they have violated a valid court order – further improved the numbers. During this period, delinquency detentions have remained fairly stable.

There has been a steady decline in states reporting use of the VCOx since 2005 for a total decrease of 63%. In fact, even states that are heavy VCOx users have seen a decline. Dr. Sickmund noted significant declines in Arkansas (95%), Kentucky (81%), and Washington (52%), and a heavy 845% increase in Ohio. In that state, there is significant variation by county.

Washington and Ohio together reported more than twice as many VCOs than all other states combined. Issues around compliance, reporting, and context/percentage of cases were discussed. These states will need technical assistance regardless of how reauthorization progresses.

Changing Juvenile Justice Boundaries

In 2016, juvenile jurisdiction extended through age 15 in 2 states, through age 16 in 7 states, and through age 17 in 42 states. Thus far in 2017, three additional states – Louisiana, New York, South Carolina – have raised the age of juvenile jurisdiction to extend through age 17. Most states only keep track of the judicial waivers that go through juvenile court because juvenile court; however, some states, such as Arizona, California, and Florida, record detail about all of their mechanisms. Dr. Sickmund asserted that all states should be reporting data on juveniles tried in criminal court.

Violence Against Youth: Historically Low Levels

According to the National Crime Victimization Survey, serious violence against youth is now below 10 per 1,000 youth ages 12-17, and the number of juvenile homicide victims remains near historically low levels. However, reported child maltreatment is increasing. It is unclear if the data reflect the fact that it simply is being reported more often or if it truly is on the rise.

Domestic Child Sex Trafficking Data

Dr. Sickmund explained that, while many people in the United States see human trafficking as an international issue, rates of reported trafficking – both sex and labor – in the US more than doubled from 2012 to 2016, according to the National Human Trafficking Hotline. In 2016, about 2300 of the approximately 5300 reported trafficking cases were minors; this included sex and labor trafficking.

Risk Factors

Three of the top risk factors are:

- Recent migration/relocation
- Runaway/homeless youth
- Unstable housing

Dr. Sickmund encouraged FACJJ members to think about how often families in poverty and children in foster care relocate, adding that people do not know what the safe and unsafe locations are in a new place.

Numbers of Youth Victims

In 2015, an estimated 1 out of 5 endangered runaways reported to the National Center for Missing and Exploited Children were likely child sex trafficking victims. Of those, 74% were in the care of social services or foster care when they ran away.

Juvenile Arrests for Crimes Against Persons: Historically Low Levels

Youth arrests for crimes against persons – aggravated assault, robbery, and murder – are at or below historically low levels. In fact, the juvenile arrest rate for violent crimes in 2014 was at its lowest level since 1980. Dr. Sickmund characterized today’s youth as less violent than their parents’ generation.

That said, simple assault is one of the few offenses that has not reached a historic low. It has declined but not as much as violent crimes.

All of this translates to fewer youth entering the system. Dr. Sickmund cautioned against states claiming positive changes, as they need to show changes that reflect more than smaller numbers of JJ-involved youth.

Delinquency Caseloads: Continually Decreasing

The delinquency caseload reached its lowest point in 40 years, and, in 2014, the number of delinquency cases handled in juvenile courts throughout the U.S. fell below 1 million.

Dr. Sickmund shared the case flow from 2014, explaining that more cases still are held formally than informally. She pointed out that the number of out-of-home placements in adjudicated cases is quite low.

Courtroom Shackling

In 21 states and the District of Columbia, courtroom shackling of youth is restricted by legislature or judiciary policy. In the 29 remaining states, no statewide restriction exists. Dr. Sickmund remarked that, in those 29 states, it is likely that youth are regularly shackled in the courtroom.

Persisting Racial and Ethnic Disparities

Racial and ethnic disparities persist at various decision points in the JJ system. DOJ receives racial disparity data from 19 states; this information is not shared publicly. Eleven states publish data and assessment research annually, and four states publish only annual indicator data annually. Seventeen states publish only assessment research data annually.

Data from the Juvenile Court Data Archives is analyzed by offense using an RRI Matrix.

Overall, black youth are more than twice as likely to be arrested as white youth. And, detention and placement are more likely for cases involving black and Hispanic youth than for cases involving white youth.

Residential placement rates have declined 50% or more for all race groups since 1997. However, despite these declines, the placement rate for minority youth in 2013 was nearly three times the rate for white youth, with minority youth accounting for 68% of youth in residential placement.

The minority proportion of kids in residential placement varies tremendously by state. In 23 states, 68% to 96% of residential placements are of minority youth.

Youth in Detention Overall: A Significant Decline

Many fewer youth are in residential placement, and that number continues to decline. From 2006 to 2013, juvenile placement rates declined in every state, and nine states cut their rates by half or more. The number of juvenile offenders in residential placement in 2014 was less than half the number held in 2000, and the 2015 data show even more decline.

A discussion was held around judge's preferences and comparisons, as well as challenges specific to rural counties.

Use of Isolation

In 2013, nearly half of training schools and detention centers reported use of isolation to control behavior within the previous month. No information was requested or provided regarding the frequency or duration of isolation.

Punitive Confinement

As of 2016, 30 states prohibited punitive confinement, 15 states limited punitive confinement, and just 6 states placed no limits on the use of punitive confinement. It is worth noting that, simply because a state imposes no limits, this does not mean it is using the punishment.

The definition of punitive confinement in this case is solitary confinement as punishment by facility decision, versus the provision of space for a child who is in need of solitude.

Joe Vignati noted the existence of a 2016 Georgia policy limiting punitive confinement. He passed the policy to Dr. Sickmund, and she assured him the map she displayed would be updated to reflect the state's use of limits.

Dr. Sickmund explained that the National Council of Juvenile Family Court Judges passed a resolution last summer in favor of eliminating solitary confinement. The resolution includes options for judges, such as asking about the confinement policy of a facility being selected in a case.

Use of the Evidence Base

Six states – Florida, Louisiana, Nebraska, Pennsylvania, Washington, and West Virginia – require use of evidence-based policies, programs, and/or practices and have resource centers to provide support. Dr. Sickmund noted that states with all of these in place are more effective in disseminating EBPs throughout the state.

Many states require use of risk assessment tools and provide training on use, while others simply recommend them.

Recidivism

Many states do not routinely publish recidivism statistics for youth involved in the juvenile justice system. This does not mean that the data do not exist at the agency level nor that the information is not shared with state-level policy makers.

Definitions of recidivism vary across states. The Council of Juvenile Correctional Administrators (CJCA) developed a definition that, according to Dr. Sickmund, works very well for correctional facilities but is a fairly limited one overall. The National Center for Juvenile Justice, with support from the Pew Charitable Trusts, has assembled five states with the goal of developing a definition, and it has proved challenging, particularly around the issues of information sharing agreements across agencies and the lack of data sharing across states. Mr. Vignati asserted that risk needs to be included in any definition of recidivism.

A discussion was held about the value of having a national recidivism number. Mr. Vignati asserted that developing such a number is a worthwhile endeavor for trying to communicate to the public the effectiveness of JJ work or the progress that is needed. However, a state needs to be able to explain why the recidivism rate rises when status offenders are no longer being detained and therefore those youth who are detained are more likely to get in trouble again. Dr. Sickmund noted that comparing recidivism rates across states present numerous challenges, including rates not having the same meaning from one state to another. Finally, expungement of records can lead to a lack of recidivism knowledge.

Statistical Briefing Book (SBB)

Dr. Sickmund reviewed the elements of the SBB and provided the FACJJ members with a brief tutorial on locating information using the online tool. There is a lot of information by state and some information by county. Elements of the site are:

- Juvenile populations
- Juvenile status victims
- Offending by juveniles
- JJ systems, structure, and process
- Law Enforcement and juvenile crime
- Juveniles in court
- Juveniles on probation
- Juveniles in corrections
- Juvenile reentry and aftercare
- Special topics
- Data snapshot

Publications and data analysis tools are available on the site, and a search engine allows users to find information by category, such as age or race.

One question raised was whether there is movement toward being able to look at information on documented vs. undocumented residents. Other groups that need data include the tribes.

Dr. Sickmund encouraged FACJJ members to explore the SSB further, and she provided her contact information:

- Msickmund@NCJFCJ.org
- 412-246-0824
- NCJJ.org

Mr. Slowikowski adjourned the public portion of Day 1 of the meeting at 3:10 p.m. CDT.

DAY 2 – RECONVENE AND ROLL CALL

Reconvene and Roll Call

Jeff Slowikowski called Day 2 of the FACJJ meeting to order and reviewed the agenda.

Judge Timberlake conducted roll call.

Roll Call

George Timberlake/Illinois (Chair)
Amy Davenport/Vermont (Vice Chair)
Ashley Beall/North Dakota
Thomas Broome/Mississippi
Timothy Brurud/Montana
Vernon Daniels/Nebraska
Lisa Jacobs/Illinois
Jane Kallal/Arizona
Kimberly Larson/Massachusetts (via phone)
Sasha Pellerin/New Mexico
Melanie Shapiro/Maryland
Paula Smith/Nevada
Penelope Spain/District of Columbia
Joe Vignati/Georgia

OJJDP Acting Administrator Eileen Garry also was present.

Gregory Parks (Oklahoma) joined Day 2 via phone at the start of the ethics training.

DAY 2 – FACJJ WEBSITE DEVELOPMENT DISCUSSION

Melissa Kanaya, *Senior Program Manager, Bixal Solutions*
Lynn Maia, *Digital Project Manager, Bixal Solutions*

Bixal

Ms. Maia introduced Bixal Solutions, sharing that the company serves government and private sector entities, including the Securities Exchange Commission (SEC), the U.S. Small Business Administration (SBA), and the Department of Defense.

Bixal specializes in technology and digital communications, including search engine optimization (SEO), and provides program and other types of management, as well as strategic communications and marketing. It is able to identify, understand, and reach website users.

Bixal's Support of the FACJJ

Ms. Kanaya educated the FACJJ members on Bixal supports the committee, explaining that it provides day-to-day program management support in the form of meeting scheduling, planning,

and support; conference management, including agenda development, meeting and travel logistics, and minutes; and research.

One element of Bixal's work with the FACJJ is updating and management of the committee's public-facing website. One goal is to ensure that the site is continually updated to contain current information, such as meeting announcements and agendas, as well as past meeting materials and summaries. However, the overarching goal is to provide relevant, valuable information that the FACJJ and the public can easily access.

Website Development Process

To initiate the process of developing the FACJJ website, the Bixal team asked OJJDP staff to their thoughts on what needs to be included on the site. It then conducted a survey of approximately 70 FACJJ members, asking them to evaluate the current website and provide feedback and input on elements that should be included. The team then compiled the results and reviewed the site for best practices within the technology community. It submitted a report of recommended updates to OJJDP, which has approved moving forward with the changes.

Planned Website Updates

Ms. Kanaya outlined some of the approved website changes as follows:

- User-Friendliness
 - Changes will include adding a search bar visitors can use to access information by topic, name of document, or other input.
- Speed
 - The page load speed will be increased.
- Navigation Bar
 - The current navigation tabs will be condensed to allow for ease in locating information.
- Branding
 - The site's look and feel will be better aligned with OJJDP.
- General Site Clean-Up
 - Descriptor language will be added for each of the topics, and broken links will be fixed.
- Images
 - Photos will be selected that better represent the FACJJ and the population it serves.
- Registration
 - Meeting and webinar registration will be improved, and registrants from outside the FACJJ will be captured in such a way that can be utilized to grow the community (i.e. subject matter interest, geography).
- Subcommittee Section
 - This section would include subcommittee past meeting agendas and minutes, supporting documents, and recommendations for public reference and use.

Ms. Kanaya solicited feedback from FACJJ members, and a discussion followed.

Discussion

Judge Timberlake asserted that publicizing the subcommittee’s work on the website could allow for input from experts in the field.

Ms. Kanaya suggested that perhaps public comments could be collected through the website and brought to the FACJJ for review.

Judge Davenport remarked that it would have been helpful if the survey had been accessible to members via the website for members’ download and responses. She also mentioned that the current placement of annual reports is not intuitive. Finally, a logical place should be created for draft recommendations, should subcommittees want those to be available for comment by those outside the FACJJ.

Ms. Kanaya reiterated that changes will be made to the navigation bar, and she noted that annual reports have not been a focus. Reports will become a subcategory. Also, the team is working to determine how best to incorporate the survey as an active form and to share the comments received. Mr. Slowikowski added that “annual report” needs to be changed so that inclusion of draft recommendations both captures and feeds into the work the subcommittees do going forward.

Judge Davenport pointed out that the LGBTQ recommendations currently are not listed on the website in a way that communicates the subject area. The topic needs to be clear, and including the name of the report would be helpful.

Mr. Slowikowski echoed Judge Davenport’s comment, noting that, in the specific instance she mentioned, numerous non-FACJJ members with significant expertise in the LGBT field should be able to see the recommendations coming out of the subcommittee.

Ms. Maia clarified that the goal is not to create a forum for online arguments which could cause problems. Therefore, what will be incorporated is simply a form for submitting comments.

Lisa Jacobs reflected that the FACJJ wants to communicate two areas of information: 1) substantive issues; and 2) FACJJ activity. She suggested including a brief statement that the FACJJ has three subcommittees that are exploring specific substantive issues – the ongoing work. Users can use that to determine where to go to get more information and become engaged. Final recommendations can also be accessed.

Judge Davenport agreed to the need for a section on ongoing work and one for finalized reports.

Ms. Spain asked if the ability exists to interact with any other social media platforms, such as using a Twitter account to drive viewers to content. For example, linking to the website on social media when recommendations are submitted could create energy around them.

Ms. Kanaya shared that the Bixal team has a meeting coming up with the OJJDP Communications Department and will raise that topic for exploration.

Joe Vignati asserted the need to use clear and basic language in terms of the branding – what the FACJJ is, what it does, why it is important. The site needs to showcase resources and recommendations and needs to connect to more information about the work.

Based on ongoing internal discussions and work related to the platform, the timeline for the website development is not 100% clear. However, the goal is to have the site ready for viewing at the FACJJ's annual meeting in September.

DAY 2 – 2016-2017 SUBCOMMITTEE REPORTS

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

Legislation Subcommittee

Judge Davenport reported that the Legislation Subcommittee reviewed the survey and the full-FACJJ discussion from Day 1. A title for the report is in process, and some options were discussed.

Based on the subcommittee's meeting, Judge Davenport developed a timeline for the subcommittee's planned activity.

Timeline

- *Mid-May*
 - Send the raw survey data and charts to the states
 - Judge Davenport also will send the results to Naomi Smoot at CJJ and then confer with her around possible next steps to ensure that the work of the FACJJ and CJJ aligns, as CJJ provides significant support to the SAGs. This might include sharing of the survey during the CJJ conference in June.
- *June*
 - Mr. Slowikowski will inform new CJJ Specialists about the survey, the results, and the supporting data when he presents about the FACJJ during their training in Washington, D.C.
 - Possible sharing of survey information at the CJJ conference
- *September*
 - Draft of topic-specific email blast or other communication completed
 - This would be a prototype for use going forward
 - It would include a history of the topic and stories from selected states.

The subcommittee views the survey as a vehicle for educating the SAGs about other SAGs' activities as well as the role and activities of the FACJJ. This could create stronger bonds among the groups.

Judge Davenport encouraged FACJ member to forward ideas for an engaging survey title to her via email.

Judge Timberlake strongly supported the idea of partnering with CJJ around messaging to state legislatures on specific topics. Such partnering also would send a message to the SAGs of the importance of these topics.

Research and Publications Subcommittee

Ms. Jacobs reported that the Research and Publications Subcommittee reviewed the two presentations they had been given since January and that were discussed on Day 1. The group took stock and asked what youth populations or issues exist about which it has yet to talk and gather more information. Populations raised in discussion were undocumented immigrant youth/youth with undocumented caregivers and youth who are engaged in sexual offending.

The subcommittee settled on youth with active trauma symptoms. It sees this as a more universal category that can cut across numerous issues.

Timeline

- *May*
 - Touch base to take stock and add any issues members have discovered that fit in this topic area
- *June*
 - Engage in substantive conversation and a presentation around the history of trauma, ways to identify youth with trauma needs, and how trauma impacts interaction with those youth
 - All FACJJ members are welcome to join for the conversation presentation.
- *July*
 - Begin distilling factual findings and preparing recommendations

The subcommittee will complete a survey to find a monthly meeting time that works for everyone and does not conflict with judges' and probation officers' schedules.

Judge Davenport recommended reaching out to University of Nevada, Reno Director of Judicial Studies Shawn Marsh; he is the former Chief Program Officer for Juvenile Law at the National Council of Juvenile and Family Court Judges (NCJFCJ), where he taught and provided technical assistance on topics such as implicit bias and trauma-responsive justice, and oversaw myriad national projects focused on child welfare, juvenile justice, judicial decision-making, school engagement and trauma/victimization. Dr. Marsh has audited juvenile courts with the awareness that many youths' first contact with the JJ system is a court hearing. He has done much to sensitize courts about the issue of trauma and how to engage with youth who have been traumatized.

Transitioning Youth Subcommittee

Ms. Spain reported that the Transitioning Youth Subcommittee agreed with the vast majority of the comments and recommendations made by the full FACJJ the day prior. It will work to infuse the document with language that incorporates the values of assisting youth transition carefully

and well from a high level of supervision to reconnecting with the community, including families, agencies, organizations, and services.

The subcommittee will make the current Recommendation #3 the first one, placing the need for a transition plan and an advocate to ensure the delivery of that plan be elevated at the top of the list. Hopefully, that will guide the recommendations that follow.

The subcommittee also will pull out the education services provided by Judge Davenport and will draft a more robust recommendation around education services and connections.

The subcommittee wants to connect with Kim Godfrey at PbS and OJJDP Social Science Analyst Ben Adams regarding the performance-based standards for reentry to collaborate to ensure the two pieces of work align. It will reach out to OJJDP for assistance in making those contacts.

Ashley Beall has requested to be a part of the subcommittee's work and will be involved going forward.

DAY 2 – MEMBER ROLES, ETHICS, AND THE FACJJ

Charles Moses, *Deputy General Counsel, Office of Justice Programs*

Mr. Moses is the Agency Ethics Official for the Office of Justice Programs and is the contact for the FACJJ. He led the FACJJ members through a discussion on ethics for federal advisory committee (FAC) members. While he does not anticipate that an issue will ever arise with any member of the FACJJ, Mr. Moses noted that DOJ takes seriously its ethics responsibilities with all of its advisory committees. However, FACJJ members have been appointed on behalf of the Attorney General as a member of and Administrator's advisory committee; therefore, DOJ needs to make sure no issue does arise.

Purpose of FACs

FACs are established under the Federal Advisory Committee Act (FACA) to help inform federal policies, programs, and initiatives, and they assemble individuals with diverse expertise, experience, and backgrounds to provide advice both as an individual – as a professional – and in a representative manner – as a member of a SAG. DOJ anticipates that when FACJJ members provide advice to the Administrator, they are speaking on behalf of themselves, their state SAG, and those SAGs or jurisdictions that may be similar to their own.

The FACJJ is a statutory advisory committee, and therefore its purposes include advising the President and Congress (by way of the Administrator) on federal juvenile delinquency prevention policies, providing state-level perspectives, and advising OJJDP on its functions.

The FACJJ's advice is provided through its designated federal official (Mr. Slowikowski) and can take various forms, such as memoranda, reports, and briefings. All committee advice is a

matter of public record, and all meetings, save for some subcommittee meetings, are open to the public as well.

Ethics and the FACJJ

Expected Bias vs. Unexpected Bias

Every FACJJ member is “wearing a hat” – representing a particular expected bias. Everyone also has unexpected biases, such as those of one’s spouse and family, employment relationship with a private firm or a government entity, or another personal viewpoint. It is unexpected bias – those personal, (even multiple) organizational, or financial relationships – that can be an issue.

Conflict of Interest (COI): A Major Concern

Use of one’s federal position for personal, professional, or organizational gain is improper. Therefore, everyone needs to be very careful that, as they deliberate over topics, they stay away from those things where it may appear that they are trying to secure preferential treatment of some type. The higher level the guidance, the less likely it is to appear to give that treatment to a particular organization or person.

Each FACJJ member signs, yearly, a Certification of No Conflict and Nondisclosure. The form provides topics to think about when discussing issues in committee and subcommittee meetings. An example is whether or not a committee member; the member’s spouse, children or family; business partners; employers; or future employers could derive any benefit flowing directly out of an action that taken by that member. If that could be the case, the member would need to speak directly to Mr. Slowikowski, the Chair, and/or Mr. Moses.

One question that often is asked by members is whether their employer can have a JJ grant? The answer is that a FACJJ member can absolutely work for an entity that receives JJ grant funding. In fact, the member’s role in FACJJ should not be at such a level that it would impact individual grant decisions. That said, FACJJ members who do work on JJ grants should take extra care not to violate any rules in executing the grant, as it could appear that special treatment is being given otherwise.

Use of Information: Public or Non-Public

Public information

Meetings, records, drafts, reports, and documents created by the FACJJ are public.

Non-Public Information

It is likely that, at some point during their tenure, members may become privy to what is non-public information. An example is OJJDP information being considered by the government as it considers modifications or changes in policy; this could be advance discussion about a future Presidential budget, a Bureau of Justice Statistics report that has yet to be released, or preliminary research findings from a JJ research project. Information shared in preparation for meetings may be non-public; such information may not be shared or used for outside purposes.

Restrictions on FAC Membership

Registered federal lobbyists may not be appointed to an FAC (thus reducing the influence of special interests on the Federal Government). However, state-level lobbyists may be appointed.

It is asked that any member who becomes a registered lobbyist alert Mr. Slowikowski. If it was at the federal level, the member would have to step down, at the state level that would not be the case. To be clear, registered federal lobbyists are ineligible to serve on FACs even if they lobby on behalf of a different subject matter or cause for which the committee provides guidance.

Lobbying and the FACJJ

A 2002 anti-lobbying statute expanded lobbying restrictions from federal employees to state/local/tribal governments, all grantees, and FAC members. The exception is where statutory authority exists (e.g., FACJJ reports). If a FACJJ member is on FACJJ business (thereby using federal money for travel, lodging, food, etc.), s/he must be careful not to lobby for any state, local, tribal government for any issue, whether it is a referendum, a bill, even an idea of a bill that has yet to be written.

JJDPa recognizes that it is important for SAG representatives to be in contact with their governors and state legislatures in order to provide guidance about juvenile justice-related legislation to make sure that the legislation would not be at odds with the core requirements of JJDPa.

Mr. Moses provided two scenarios for discussion:

Scenario #1

A FACJJ member meets with his/her state legislator(s) to discuss pending state legislation on juvenile deinstitutionalization of status offenders and brings the most recent FACJJ report. S/he shows the legislator the report, indicates that s/he is a FACJJ member, and points out how the pending state legislation conflicts with the federal statutes. This is fine, as SAG members are allowed to lobby their state legislatures, and providing a FACJJ report is educational.

Scenario #2

While in DC for the annual FACJJ meeting, a committee member skips a meeting section to spend time "on the Hill" talking to his/her state's senior senator's staff about pending mental health legislation. This is in violation of the anti-lobbying statute, as the member is using federal funds. Note: If the member stayed beyond the days of the meeting at her/his own or a non-federal organization's expense, meeting with a senator's staff on Capitol Hill would be fine.

Mr. Moses closed with the comment that ethics is fundamentally simply common sense.

Additional Guidance

Designated Agency Ethics Officials for OJP

Charlie Moses, Deputy General Counsel, Office of General Counsel
202-305-2536
charles.moses@usdoj.gov

Gena Bernhardt, Assistant General Counsel, Office of the General Counsel

gena.bernhardt@usdoj.gov
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DAY 2 – EMERGING ADULTS: CHALLENGES AND OPPORTUNITIES FOR JUSTICE SYSTEMS

Lisa Jacobs, JD, *CCJ Program Manager, Loyola University Chicago*

David Olson, Ph.D. *Professor, Graduate Program Director, Department of Criminal Justice and Criminology, Co-director of the Center for Criminal Justice Research, Policy and Practice (CCJ), Loyola University Chicago*

Judge Timberlake introduced Ms. Jacobs and Dr. Olson, noting that Loyola University has been deeply involved in all of the JJ reforms that have taken place in Illinois over the last 10 years.

For nearly 20 years, Dr. Olson worked at the Illinois Criminal Justice Information Authority, where he was the director of the Statewide Drug and Violent Crime Control Strategy Impact Evaluation Program and was responsible for overseeing the evaluation and monitoring of federally funded drug control efforts in the State of Illinois. In 2015, he was appointed as a Commissioner to the Illinois Governor’s Commission on Criminal Justice and Sentencing Reform. Dr. Olson has worked with a variety of federal, state and local agencies to develop and evaluate programs and policies, particularly in the area of community and institutional corrections, during his 29 years in the field of criminal justice.

Presentation Goal

Ms. Jacobs explained the critical need for those in the JJ world and in criminal justice practice and policy consider how emerging adults interact with the justice systems. The issue has become a larger conversation and recently has become ubiquitous in the media.

Dr. Olson noted that Loyola’s Center for [Criminal Justice Research, Policy and Practice \(CCJ\)](#) is co-directed by him, a faculty member of the College of Arts and Sciences, and Diane Geraghty, director of Civitas Child Law Center, part of Loyola’s law school. He described it as “a fairly neat blend of the social sciences and the legal community and how we approach and answer questions about practice and policy”. CCJ’s focus is addressing crime and justice issues in Chicago, the surrounding area, and the state, using a multidisciplinary approach that balances understanding of the legislative process and policy development by using objective and empirical evidence.

The goal of Ms. Jacobs’s and Dr. Olson’s presentation was to provide a better understanding of the emerging adult population and to discuss ways that we can work, both at the state policy level and within specific jurisdictions in Illinois to better understand how this population is viewed and responded to, and how systems can be more effective and efficient and create better public safety outcomes.

Emerging Adults: Perspective and Context

Over the last two years, CCJ has concentrated on emerging adults, convening a statewide conference to gather information about challenges and opportunities with this population and to gauge interest in further exploration. This dialogue clearly indicated need and interest on the part of criminal law enforcement, defense attorneys, prosecutors, judges, police officers, jail personnel, and probation officers to focus on young adults.

CCJ followed up with workshops, broken out by system – the first was for law enforcement contact through a pretrial phase (front end), and the second was around post-trial to community services, corrections, and reentry. In both workshops, facilitators elicited the participants' experiences with young adults around opportunities, challenges, and where the system – whether or not a juvenile or adult criminal the justice system – helps produce positive outcomes.

Based on that process, CCJ has taken the lead on delving more deeply into policy and practice issues. Dr. Olson has been gathering and working to understand implications of the data. From there, the center has begun working one-on-one with Cook County to study its emerging adult population and identify where opportunities may exist to change policy and practice to produce better outcomes and better public safety.

There also is a dialogue emerging nationally, around emerging adults. In 2015, DOJ called a national convening on emerging adults.

There is a growing recognition that all elements informing juvenile justice may be relevant beyond age 18. People are recognizing the realities of young adults and what they need, especially if they have experienced some treatment or trauma and are involved in justice systems. The discussions around emerging adults have arisen from the juvenile networks, the groups of people who have expressed a need to broaden analysis of emerging adults and reach of better practices into that area. Developmental science provides evidence that likely no specific line exists between adolescence and adulthood. Evidence-based practice suggests a blending of juvenile and emerging adult issues.

There is a growing focus on mass incarceration and reducing use of jails. This requires determining what has happened with the emerging adult population and the extent to which it is incarcerated whether alternative approaches are available and practical.

Dr. Olson has done a significant amount of analysis using detailed Illinois data. He provided a broader context for the FACJJ using some national data. He reported on Illinois findings, as he was able to provide more detailed analysis with those data.

Population Information

There are about 31 million emerging adults in the U.S., about 13% of the adult population. In Illinois, those ages 18-20 under the custody of the justice system comprise a complex mix of people on juvenile probation and in juvenile correctional facilities, as well as people on adult probation and in adult prison.

Overall, the U.S. population is expected to increase by about 13% over the next 15 years, most of that driven by the older population. Population projections for the groups of ages 15 to 19 and ages 20 to 24 show stability over the next 15 or 20 years, with a slight decline in the latter group.

Crimes by Age

The age group of 18-24-year-olds accounts for almost one-third of all adult arrests in the U.S. The rate of arrest per 100,000 people for this age group is roughly 10,000; this translates to one in almost 10 people of these ages getting arrested, if you factor in that some people are arrested multiple time per year. The peak of criminal behavior, if measured by arrests, is not among juveniles but among emerging adults ages 18 to 21. Since emerging adults represent 13% of the population, they are dramatically overrepresented among arrests.

Given that the age group will remain the same size, the data suggest that crime will stay relatively consistent as it has for the past decade. Therefore, despite some recent increases in lethal violence in particular cities, the general crime pattern is relatively level. This will allow the JJ world to focus more carefully on a response.

Much policy and advocacy work is focused on the juvenile justice system and how the juvenile justice system responds. Also, there is a growing body of individuals concerned about how the elderly are treated and what will be done about the elderly prison population and the costs associated with them. There is not much conversation around the large emerging adult population that is part of the justice system. Options may be limited in terms of available service programs and youth shelters, as that age group may be too young or old for these, respectively.

Dr. Olson encouraged FACJJ members to reflect on the fact that the performance of the system ultimately will be determined in terms of how well it can respond to the emerging adult population.

Violent Crime Arrests by Age

Between 1990 and 2012, arrest rates for violent crimes of 18-24 year olds fell 42% (close to half), while arrest rates of those ages 40+ did not change significantly in either direction. (Note the raw numbers of arrests in the older population is higher, as that population has grown – reasons include driving under the influence of alcohol, opioid abuse, and the acceptance of cannabis use socially, if not legally.) Therefore, violent crime reduction has been driven primarily by the emerging adult population.

Very consistently, emerging adults account for the highest crime rates, whether violent crimes, property crimes, drug law violations, or weapon offenses, with a peak age of 19 for violent crimes. Of interest, the peak age for arrests for property crimes is 18, with a fairly steep decline. So, desistance from certain criminal behaviors may be faster or slower depending on the nature of the behavior and/or the motivation for the criminal activity.

For these data, “violent crime” is defined as an offense that is violent by definition. A weapons offense is the illegal possession of a weapon, which is usually a firearm. So, armed robbery with a firearm would be a violent offense, while the illegal possession of a firearm would be a weapons offense. Some jurisdictions define weapons offenses as violent offenses.

Dr. Olson noted that, when looking at timing, patterns, and persistence around different forms of violence such as domestic violence, one can understand why a form of crime may not peak at a certain age and remains a bit more persistent.

Working with agencies and policy makers around sentencing policy and practice and use of more punitive, more extensive responses, Dr. Olson's team is trying to get them to think differently about the risk and the biggest concerns around prevention.

Age as a Factor in Penetration into the Courts: Illinois Research

CCJ has been tracking how arrested individuals' cases matriculate through the system, as well as what role age plays in whether or not they penetrate further into the system.

All other things being equal (statistically controlled for), emerging adults were:

- Less likely to have an arrest lead to a filing;
 - Something is happening between an arrest and the decision to file charges in which age is being considered, either formally or informally.
 - CCJ is looking for examples of diverting more formal processes for this population in a way that involves some incentive and motivation to participate or access services appropriate for legal adults potentially still living at home.
- More likely to have a filing lead to a conviction;
 - Being an emerging adult has an aggravating effect; after accounting for gender, race, charge, and criminal history, an emerging adult's filed case is more likely to result in a conviction.
- More likely to have a conviction lead to a prison sentence; and
 - If an emerging adult is convicted, s/he is more likely for that case to result in a sentence of incarceration. The pattern is consistent regardless of urban/rural location and crime type.
- Less likely to receive a relatively long prison sentence.
 - The reduction is modest.

CCJ is working to engage with some practitioners to get their sense of what's going on regarding age and risk. Some of them say that they never really thought about it; the people were convicted of crimes and are treated the same regardless of age. However, in the back of their minds, the fact that emerging adults may be disrespectful, do not dress properly, or are rude to the judge – all the things that we would expect of 18 and 19-year-olds – judges admit to tending to be a bit tougher on them as opposed to the person who shows a little bit more respect for the process.

Correctional Outcomes

Illinois probation records show that emerging adults tend to have poorer outcomes. They are more likely to have their probation revoked and to be rearrested within three years post-discharge from probation (25% vs. 15% for rearrests).

Emerging adults also fail in court-ordered drug treatment at rates higher than the general population. This demonstrates that, even when the system identifies needs of people on probation

and refers them to services to address those needs, the emerging adult population does not respond as effectively to the therapeutic intervention.

Dr. Olson wonders whether the reasons for this are cognitive or if they are environmental, such as a lack of social skills that at one time began in the home environment and somehow no longer does. He noted that people in that age range have always been a little bit less respectful and a little bit more risk-taking than an older population. Some research would suggest that the period of being an emerging adult, in which risk is allowable or acceptable, has lengthened. However, it is fair to say that 18, 19, and 20-year-olds have always done things that were a bit more dangerous and risky than others. Now, the consequences might be more substantial. Certainly, the digital documentation that exists today could be a factor.

Also, therapeutic interventions designed for the “typical” adult offender may simply not work for emerging adults. Perhaps changing the treatment regimen to better suit their needs and their attitudes will be more effective and lead to lower failure rates.

Correctional Populations by Age

People ages 18 to 24 account for 11% (166,000) of the roughly 1.4 million adults in state prisons in the U.S. The majority of emerging adults going to prison in Chicago (Cook County, IL) do so for violent crimes. It is important to note that the definition of violent crime in Cook County includes the illegal possession of a firearm, and one in five emerging adults are sentenced for that reason. Another third is imprisoned for other violent crimes.

On any given day, about 17% of the Illinois prison population is under the age of 25 – emerging adults. And, even though just 2% of incarcerated emerging adults are imprisoned on murder charges, two-thirds of the people in prison today who are serving a murder sentence committed those offenses when they were emerging adults.

CCJ is working to educate policy-makers and practitioners that a 45-year sentence may not be needed for someone to achieve the goals of retribution and punishment, with the state then needing to deal with a 60 or 70-year-old inmate who has never been outside of a correctional facility as a cognitive adult. Also, when a 20-year-old receives a 40-year sentence, that person will get out at an age that makes for a lot of complex issues with respect to reentry.

Recidivism and Age

It is widely argued that age relates to risk of recidivism. However, Bureau of Justice Statistics data demonstrate that, while the percentage of people who get arrested for any crime within three years of being released from prison does decrease with age, even among the older inmates who exit the system, two-thirds are still getting arrested for another crime.

Looking at the data on rearrests for violent crime offenders, there is some drop off; however, about 30% get rearrested for a violent crime. It is important to realize that almost none of these are murders and a low number are rapes. In Illinois, about half of the violent crimes for which inmates get arrested are domestic battery, which certainly is a serious crime that is a form of violence. But, it is a crime of violence that may not be easily remedied by returning the person to

prison for a parole violation and may not be the kind of violent crime that requires mandatory minimum long-term sentences.

In Illinois, there is a challenge that people who are either released from correctional custody or are on correctional supervision rearrested for a crime involving domestic violence or violating an order of protection face mandatory parole revocation and a return to prison. This may affect victims' willingness to contact authorities, as they know that a parolee will be removed. In some cases, they may welcome that; in others, they may not. Also, some police departments see a domestic violence call as a unique opportunity to utilize the mandatory arrest policies to remove people from society for a period of time. This seem to be affecting the emerging adult population.

Half of 17- and 18-year-olds in Illinois are being arrested for a violent crime after they get out of prison. This could be the cognitive issue, or it could be the result of non-response to cognitive development realities. Perhaps it is the result of an emerging adult spending time in prison and then released.

Conclusions

CCJ continues to advance data collection and proved somewhat more sophisticated analysis. It is the sense of the team that much of its work in this area will be at the local level and in working to understand how the responses to the emerging adult population are varying locally.

Dr. Olson noted that practitioners and policy-makers who attended the initial conference two years ago began to shift their thinking and talked about creating a division within their jails specifically for this population in order to try to figure out how to work with it more directly and differently than they do with other populations.

Ms. Jacobs values the ability to bring together the national research, the practitioner perspectives, and the state-level data to determine whether assumptions are borne out in the numbers. While many people acknowledge that working with emerging adults is different from working with other populations, no one has focused on why and how it is different, and whether systems have been built that respond to those differences. One thing of note is that proposals currently exist in several states to raise the age of juvenile court jurisdiction even further beyond 18. There is debate around this, as the heavy supervision, conditions, and monitoring that may be appropriate for adolescents may set up young adults for failure, due to developmental reasons and placement within the family. It is necessary to identify what motivates desired changes.

Regarding the question of raising the JJ age for emerging adults, one theme that emerges is the need to combine the best of both systems. An adult criminal justice system has heavier due process protections that might be very appropriate. On the other hand, the work that that has been done in the juvenile rounds to develop front-end alternatives to detention – jail – in the adult system...ways to divert and deflect, not just from the system, but into things that youth might need.

This field of research is developing very quickly. Beyond discussions around raising the juvenile age in some states, two bills are pending in Illinois to begin the conversations; legislative

hearings are scheduled around the issues of specialized custodial programs in jails and prisons, as well as specialized community corrections programs.

Some states have looked, and are looking, at probation and parole specialized community-based services. Juvenile Detention Alternatives Initiative (JDAI) and others have built several community-based providers to supervise and keep youth out of detention, at a minimum. That give providers the ability to step up in juvenile court to take responsibility for and lay out a supervisory plan for the defendant.

Ms. Jacobs asserted that all of the work in the JJ field has been premised on the message that youth are different from adults. It is necessary to explore whether youth are committing offenses for different reasons, whether bringing them into the system is different, and whether and how they are different in the way they respond to interventions. It is obvious that being different does not magically disappear at age 18. So, it is important to learn about ways that the emerging adult population is unique. One example is decision-making: Research shows that emerging adults are able to make great decisions; however, when peers are added, they function more like adolescents.

Another issue is confidentiality of records and records release as it relates to age-appropriate activities such as college and first employment. It is important determine ways to extend some of records-release activity in the juvenile realm, appropriately, with an eye for public safety.

There is a lot of interest in this topic, and that is very exciting.

Discussion

Judge Timberlake remarked that the fact that the juvenile work has been so positive over the last few years is important. It is also important to distinguish that raising the age of juvenile court jurisdiction may not be the right way to go, in the sense that the characteristics of a juvenile court may well need to be applied to this age range, but this is a different cohort. The FACJJ needs to be aware of this work happening around the country; it may or may not have implications on JJ policy in age and practices.

Ms. Spain asked if CCJ is seeing that particular agencies of the Federal Government are either taking some leadership stands on this or are curious and want to hear more. In particular, for there is no precedent for D.C. inmates. Therefore, all young people are sent out to the Federal Bureau of Prisons. Ms. Spain wondered if there is any conversation about some of the provisions of the specialized correctional programs for this population from the federal side.

Dr. Olson noted that the federal Prison Rape Elimination Act, at least in Illinois, required the state system to rethink how it houses inmates in the adult system; when 17-year-olds were still considered adults, which created requirements on them that came down from the federal government.

Unlike reentry, drug task forces, or the Second Chance Act, this is something that is coming more from the bottom up.

Ms. Jacobs mentioned the 2015 National Forum on Emerging Adults convened by the Attorney General. One thing that grew out of that convening was the DOJ scan of practices currently in place. While outdated, it is a good resource.

Judge Daniels asked how gang affiliation or gang-inspired crimes fit into the definition of violent crime. He was curious to know if it enhances the nature of a crime being violent and whether it mitigates one way or the other.

Dr. Olson, based on other research he has conducted, asserted that gang membership does not differentiate criminals once one gets to a certain point of the criminal population. Looking at gang affiliation among people coming out of prison, gang involvement had little influence over their recidivism pattern. However, they all are pretty serious criminals and have been incarcerated and imprisoned. So, gang membership did not differentiate them in terms of criminal patterns.

Gang membership did have a fairly strong influence on recidivism patterns of people on probation. Of course, a much more diverse group of criminals is on probation versus gang members who might be more serious criminals; they are being compared to first-time offenders who are on probation.

A participant asked if any effort is underway to implement any kind of problem-focused recovery efforts in that emerging market.

Dr. Olson noted that Illinois plans to focus on trauma recovery and put trauma recovery centers in high-crime communities. By default, those will focus on emerging adults. That said, in a city such as Chicago, because of the volume, it is not possible to have highly specialized programs for emerging adults who experience trauma and who also are substance abusers. There are actually not enough people to provide the program.

Ms. Smith commented that many Native American young youth, like this age level, are at the BOP or BIA Corrections. She tries to keep them until age 21, instead of sending them over to adult probation due to their cognitive developmental levels. Also, they have other issues such as fetal alcohol syndrome or mental health troubles. Cognitively they might be 18 or 19, but they function at a 16-year-old level because of drugs and alcohol. If they go into prison or jail, they keep re-offending.

Dr. Olson noted the importance of determining the level of potential opportunity with this age group. In juvenile secure correctional facilities, there are times when the view is, "We will hold onto them as long as we can before we can transfer them to the adult prisons." Other times, people say, "They're 18 (sometimes 17), and we're not going to consume our resources for this population." A lot of these people are under the custody of the juvenile system, and ways to extend or incentivize are necessary. We want to hold onto them before we kind of put them into the system, just may have a different view of this.

Judge Timberlake commented that Illinois provides money to communities on both the juvenile and adult sides. The adult-side funding is overwhelmingly for drug courts, a specialized court – a good thing, but it misses everyone else in that population group. Perhaps one method going forward is to increase the funding and the restrictions on how the monies can be deployed in an individual community. However, the services have to be provided, too, they're not there, particularly if we have the money to pay for the services.

Judge Timberlake thanks Ms. Jacobs and Dr. Olson for their presentation.

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

Judge Timberlake thanked everyone for joining the meeting.

Upcoming FACJJ Webinar Meeting

There will be a short webinar scheduled likely for July to receive updates on the work of the subcommittees. The website development status will be shared, and the FACJJ will check in with OJJDP to learn if any holds have been lifted. The September annual meeting will be discussed as well.

Subcommittees are invited to suggest a subject-area presentation idea to Judge Timberlake or Mr. Slowikowski for either the July webinar or the annual meeting.

Judge Timberlake adjourned the meeting at 12:20 p.m. CDT.