

## **Federal Advisory Committee on Juvenile Justice**

Summary of Spring Meeting, March 16-17, 2009, Washington, DC

The Federal Advisory Committee on Juvenile Justice (FACJJ) convened for its 2009 spring meeting at 8:30 a.m. on Monday, March 16, 2009 in the main conference room of the Office of Justice Programs, Washington, D.C. The general meeting was preceded by an orientation for the new members and closed meetings of the Annual Report Subcommittee (ARS) and the FACJJ Steering Committee. The purpose of the spring meeting was to amend and approve the draft 2009 annual report to the President and Congress prepared by the ARS. The four subcommittees also met and reported out to the full FACJJ. Acting OJJDP Administrator Jeff Slowkowski addressed the group. Tuesday's session provided an overview of and introduction to the operations and programming of the Oak Hill Youth Center, Washington, DC's secure detention facility in Laurel, MD. The session included a tour contrasting the existing and new facilities.

### **Monday, March 16**

Designated Federal Official (DFO) Robin Delany-Shabazz opened the meeting at 8:30 a.m. by introducing Acting OJJDP Administrator Jeff Slowkowski. He thanked the FACJJ members for giving up their time to attend the meeting. He also acknowledged the late Robert E. Shepherd, noting his dedication to and perspective on juvenile justice issues, and his contributions to the FACJJ. Mr. Slowkowski said it would be several months before a permanent Administrator would be nominated. He said OJJDP wants input from FACJJ around the policy and legislation of its statutory requirements. He also said OJJDP will convene constituent group meetings to get broader input from all areas of the juvenile justice field about pressing juvenile justice issues.

FACJJ Chair Harry Davis then introduced new FACJJ members and outlined the goals of the spring meeting—to adopt the 2009 annual report to the President and Congress. The report focuses on leadership and the issues leaders need to address. FACJJ members then broke out into six working groups led by Mr. Gardell, Mr. Brown, Ms. Reardon, Pam Kennedy, Ms. Garton, and Mr. Davis and Robin Jenkins. FACJJ members spent the remainder of the day working on the draft annual report.

### **Draft Annual Report Discussion**

Robin Jenkins moved that the FACJJ dedicate the 2009 annual report to the late Robert E. Shepherd, Jr. The motion was unanimously seconded and passed.

ARS co-chair Cecely Reardon reported on several concerns and suggested revisions made by the working groups. These included concerns about the critical, sometimes inflammatory tone of the report; the use of the word children rather than juvenile; confusion surrounding the use of the word jail when talking about secure detention; the need to include substance abuse and co-occurring disorders when discussing mental health; the need for supporting documentation and citations; and the need to mention

public safety, victims rights, and recidivism. Ms. Reardon reported that the ARS would revise the report to address these concerns.

A motion was made and seconded to accept the draft report as revised by Ms. Reardon's recommendations as the report of the committee for the purpose of further discussion. The motion carried.

ARS co-chair Dave Brown then reported on several issues that required action by the FACJJ. Major points included:

- Adopting two new Core Values that address status offenders and the use of pretrial detention.
- Adding a proposal to the mental health section that the President and Congress amend the JJDP Act to require each State Advisory Group to include at least one health or mental health and substance abuse treatment professional.
- Suggesting in the delinquency prevention discussion that OJJDP use the growing body of research about the adolescent brain to guide policy and program development.
- Adding a suggestion in the effective assistance of counsel discussion that OJJDP conduct a formal assessment of the extent to which juveniles waive their right to counsel during the course of arrest and subsequent court proceedings.
- Recommending in the goals section that the FACJJ act to promote diversity within their own State Advisory Groups and asking the ARS to draft a recommendation that addresses the need for immediate and appropriate representation of Native Americans in the FACJJ.

FACJJ members also voted to add the following recommendations to report:

- Congress needs to act quickly to reauthorize the JJDP Act.
- The U.S. Department of Justice should re-examine the Adam Walsh Act and limit registration requirements for juveniles to those juvenile offenders who are determined by a court to represent a continuing danger to the public.

### **Subcommittee Reports**

The subcommittees met during a working lunch and gave the following reports:

**Planning Subcommittee:** Co-chair Deirdre Garton reported only two states had responded to the ARI and asked FACJJ members to urge their SAGs to complete the questionnaire by May 15. The Planning Subcommittee will meet in late June or early July to look at the responses and pass them on to the Annual Report Subcommittee. The Planning Subcommittee recommended that the fall FACJJ meeting coincide with the State Advisory Groups and Disproportionate Minority Contact trainings scheduled for October in Austin, TX. Training topics suggested for the second day of the FACJJ meeting include competency to stand trial, tribal issues, early intervention and risk assessment, definition of recidivism and the implications of having standard definitions, and compliance with the JJDP Act.

**Legal Affairs Subcommittee:** Co-chair Steve Teske made two motions on behalf of the Legal Affairs Subcommittee:

- The FACJJ asks that the OJJDP Administrator address within U.S. Department of Justice and develop a statement of policy that federal officials and prisons be required to comply with the Juvenile Justice and Delinquency Prevention (JJDP) Act. The motion carried. (A copy of the recommendation drafted by Legal Affairs Subcommittee is attached to this report.)
- The FACJJ asks the OJJDP Administrator take immediate steps that he or she deems appropriate to ensure that federal facilities and programs comply with the core requirements of the JJDP Act. The motion carried.

**Other Business**

The FACJJ chair and ARS co-chairs asked that the ARS be allowed to miss the planned tour of the Oak Hill Youth Center on Tuesday to discuss the 2010 annual report. Ms. Delany-Shabazz reminded the group that such a meeting is premature, and reviewed the report development cycle wherein the 2010 report development follows compilation of the responses to the FACJJ's request for information from the states and territories. That information is not due from the states until the end of the May. Following compilation and analysis of the responses, the ARS will meet during the summer to begin 2010 report development. There was additional discussion of the request, which the DFO denied. The parliamentarian also explained under federal law the DFO sets the agenda and that FACJJ chairs cannot suspend that function.

Mr. Davis adjourned the public portion of the meeting at 7 p.m..

**Tuesday, October 21**

FACJJ members met at 7:30 a.m. to travel by bus to the Oak Hill Youth Facility in Laurel, MD. Vincent Schiraldi, former FACJJ member and current director of the District of Columbia's Department of Youth Rehabilitation Services, led Tuesday's non-deliberative, closed education session for the FACJJ. The group was first given an overview of the past and present operation and programming, listened to and had the opportunity to question several of the juvenile residents, and then were guided through the current facility by the same juvenile residents. The existing center is configured like an adult correctional facility, in contrast to the new youth center, which is designed to incorporate a therapeutic approach in a safe and secure youth-development environment.

The meeting was adjourned at noon when the members returned from the tour.

**Attachment:**

FACJJ Recommendation Regarding Compliance with the JJDP Act by Federal officials and Prisons

**Attachment:**

**Federal officials and facilities that have contact with court-involved juveniles to should comply with the JJDP Act core requirements.**

OJJDP was in part created to monitor each state's compliance with the core requirements of the JJDP Act. States work diligently to comply with the core requirements using various tools to monitor juvenile justice delinquency programs. In the effort to police themselves, states have encountered programs that violate one or more of the core requirements. When these programs are encountered, each state utilizes internal influences and resources to remedy the violation. However, some of these court-sponsored programs that violate a core requirement have partnered with a federal agency and/or facility. This becomes an obstacle for the state's compliance officer because Article IV, Section 3, Paragraph 2 of the United States Constitution expressly prohibits states from regulating or inspecting federal facilities and property. In order to advance the compliance efforts of each state, it is imperative that the U.S. Attorney General, whether by administrative directive or other proper mechanism, mandate federal officials and facilities to comply with the JJDP Act core requirements.

A common core requirement violation is "scared straight/prison preview" programs. One state recently reported to this committee its concern of a local court referring court-involved juveniles to a federal correctional facility to participate in a "scared straight" program. A "scared straight" program is out of compliance when: 1) the juvenile is participating in the program under public authority (e.g. the juvenile is detained or confined in an institution under some form of public order such as a probation requirement, diversion or adjustment, or by court order); 2) the facility in which the contact with the adult offenders occurs qualifies as a "secure facility" within the meaning of the JJDP Act; and 3) the juvenile has "sight or sound" contact with an adult offender while the juvenile is in a secure area. The example above involves juveniles referred by the court as a diversion and/or probation condition, taken to the secured/confined areas of the federal facility, and are confronted face-to-face by adult offenders. This program clearly violates the "sight or sound" core requirement of the JJDP Act, but the state's designated compliance officer is, notwithstanding the attempts to address local officials, prohibited from employing whatever tools and resources at his or her disposal to remedy the violation because it occurs in a federal facility. The fact that the JJDP Act applies only to states, federal participation in a program that violates a core requirement creates an issue of equity in which the rule-maker is allowed to violate its own rules. A directive from the U.S. Attorney General to require federal officials and facilities to comply with the core requirements is equitable and enhances the efforts of states to remedy, if not prevent, core requirement violations.