

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

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The Federal Advisory Committee on Juvenile Justice (FACJJ) issues this 2010 annual recommendations report to the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to its charter and the Juvenile Justice and Delinquency Prevention (JJDP) Act. The report includes two distinct sections. The first section offers discussion and advice regarding the future role of the FACJJ. The second section focuses on discussions and advice on issues that evolved during the FACJJ's work on our annual recommendations report to the President and Congress.

The first section of this report to OJJDP focuses on the role of the FACJJ, which was established in 2004 and replaced the Coalition for Juvenile Justice (CJJ) as the body to provide advice to the President, Congress, and the Administrator of OJJDP under the JJDP Act. This was a significant change in the way this function had been accomplished for many years. From 1984 to 2003, CJJ, an independent organization of State Advisory Groups (SAGs), provided this advice. Now a federal advisory committee—FACJJ—provides this advice through the Administrator of OJJDP. Case law clarifies that for the purposes of the Federal Advisory Committee (FAC) Act, an advisory committee may be utilized “only if it is amendable to strict management by agency officials.”¹ Therefore, a discussion of the history of this function in the JJDP Act is in order.

Prior to 1985, these advisory functions were, in part, performed by a National Advisory Committee for Juvenile Justice and Delinquency Prevention (“National Advisory Committee”)², which was created as part of the 1976 reauthorization of the JJDP Act. The National Advisory Committee was comprised of 15 to 22 members and was required to meet four times a year to advise the OJJDP Administrator regarding federal juvenile delinquency prevention programs. In 1979, amendments to the JJDP Act added two subcommittees to the National Advisory Committee. One subcommittee was charged with providing advice to the Administrator and the other was to provide advice on standards for the administration of juvenile justice.³

In 1984, Congress made several significant changes to the JJDP Act. With respect to advisory functions, Congress eliminated the requirement for the “National Advisory Committee” from the JJDP Act and delegated the functions of the Committee to an “eligible organization”⁴ of representatives of the SAGs. In 1988, Congress further amended the JJDP Act to compel OJJDP to support the “eligible organization,” by stating in the JJDP Act Part D that the OJJDP Administrator “shall provide technical and financial assistance to an eligible organization composed of member representatives of State Advisory Groups appointed under [the JJDP] Act to assist such functions specified in [the Statute].” This was in response to the difficulty that SAG members were having in

¹ See *Byrd vs U.S. EPA*, 174 F. 3rd 239, 245 (D.C. Cir. 1999).

² See 42 U.S.C., Section 5617 (1976).

³ See 42 U.S.C., Section 5617-19 (1979).

⁴ See 42 U.S.C., Section 1517-19, repealed by Public Law 98-473, Section 674, October 12, 1984.

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

actually fulfilling the advisory role without a budget to administer meetings, author a report, etc. Congress also found that the 1984 changes to the JJDP Act “do not create any new advisory committees within the meaning of the Federal Advisory Committee Act of 1972.”⁵

The deliberate change of language to “eligible organization” of SAGs rather than “advisory committee” suggests that Congress was concerned that the states be able to offer unfettered advice to OJJDP itself, as well as to the President and the Congress. Federal advisory committees do not function in such a manner.

Congress eliminated the national advisory group required by the initial statute and delegated the functions to a private organization, a decision that held without challenge for 18 years. Senate Bill 678 seeks to further clarify the definition for the “eligible organization” to be a responsible and effective body to represent the SAGs in offering independent, unfettered advice to the President, the Congress and OJJDP itself, “not subject to [FACA].”

On the other hand, separate from the statute, if the OJJDP Administrator chooses to set up a federal advisory committee in the true meaning of the FACA—provided that it is not duplicative and limited in its scope and charter—then the Administrator may do so to augment or complement the work performed by the “eligible organization.”

The FACJJ is on record supporting the reauthorization of JJDP Act and the specific language in S. 678. Therefore, the FACJJ recognizes that some change is coming and proposes to work with OJJDP to determine the best course of action. We hope the discussions and recommendations in this report regarding the advisory function will assist OJJDP in determining the best public policy on this matter.

The second section of this report includes the FACJJ’s recommendations to OJJDP that coincide with our recommendations to the President and Congress. OJJDP will play a critical role in the implementation of the new language in the JJDP Act, once the Act is reauthorized. We are advising OJJDP to start now on issues such as the Valid Court Order exception. Our other recommendations focus on supporting law enforcement in responding to the disproportionate minority contact issue and on the need for OJJDP to take the lead on the policy discussion around transfer and waiver of juveniles to adult court. These recommendations are intended to help OJJDP assist the youth of America and support our juvenile justice professionals.

⁵ See House Committee on Judiciary, H.R. Rep. No. 98-894 (July 24, 1984) reprinted in 1984. U.S.C.A.A.N. at 3709.

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

Summary of Recommendations

- 1. The FACJJ recommends that OJJDP and the FACJJ participate in a strategic planning process to develop and set in motion a plan to assist OJJDP in becoming a recognized leader in juvenile justice throughout the nation and to define a new role for the FACJJ as it fulfills its responsibilities. The planning process should be led by the FACJJ and OJJDP and include other juvenile justice leaders and organizations.**
- 2. The FACJJ recommends that OJJDP leaders work with the FACJJ leaders to more clearly align the FACJJ to accomplish the objectives suggested in the strategic planning process identified above in order to meet the needs of OJJDP and to coincide with the reauthorization of the JJDP Act.**
- 3. The FACJJ commends the U.S. Department of Justice (DOJ) and the OJJDP Administrator for supporting Senate Bill 678, which reauthorizes the JJDP Act.**
- 4. The FACJJ recommends that OJJDP support additional funding for the formula grants program of the JJDP Act in order to support continued work in the JJDP Act core protections and to implement changes contained in the proposed reauthorization language.**
- 5. The FACJJ recommends that the OJJDP Administrator strengthen disproportionate minority contact (DMC) efforts, initiatives, and programs to reduce and eliminate racial and ethnic disparities that adversely impact youth of color.**
- 6. The FACJJ recommends that OJJDP immediately launch an initiative to help states make the transition that will come with ending the Valid Court Order (VCO) exception, which currently allows states and territories to securely detain status offenders who have violated a court order regarding disposition of the original status offense.**
- 7. The FACJJ recommends that OJJDP disseminate best practices related to identifying and responding to the trauma experienced by the youth referred to our nation's child welfare and juvenile justice systems.**
- 8. The FACJJ recommends that OJJDP develop an ongoing partnership with law enforcement agencies and associations around the country to develop a comprehensive set of tools for law enforcement to use in addressing disproportionate minority contact (DMC) within the juvenile justice system.**
- 9. The FACJJ recommends that OJJDP develop and implement law enforcement training that uses best practices for having an impact on DMC, and partner with the International Association of Chiefs of Police (IACP) and the National Sheriffs' Association (NSA) to disseminate DMC training and provide technical assistance across the country.**

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

- 10. The FACJJ recommends that OJJDP work with national law enforcement associations such as IACP, NSA, and others to widely disseminate this training and ensure that law enforcement officers across the nation have access to this training.**
- 11. The FACJJ recommends that OJJDP continue to research innovative approaches to addressing DMC for law enforcement professionals.**
- 12. The FACJJ recommends that OJJDP establish guidelines for diversion programming for youth that focuses on diverting youth from the formal juvenile justice process. These guidelines may include recommendations for eligibility and best practices in diverting youth from the system.**
- 13. The FACJJ recommends that OJJDP provide training and technical assistance for all juvenile justice stakeholders on promising and best practices for diversion programs and promote long-term, sustained funding for these programs.**
- 14. The FACJJ recommends that OJJDP help reform transfer and waiver policies by advocating for the narrowing of direct file and automatic transfer statutes, which allow or require the prosecution of certain juvenile cases in the adult criminal justice system, while working with states to increase the continuum of dispositional options available through the juvenile court.**
- 15. The FACJJ recommends that OJJDP advocate for the development of policies to aid the exercise of prosecutorial discretion in making decisions to transfer juvenile cases to criminal court.**
- 16. The FACJJ recommends that OJJDP advocate for the adoption of reverse waiver statutes in jurisdictions where such procedures do not currently exist.**
- 17. The FACJJ recommends that OJJDP encourage states to adopt statutes that enable juvenile courts in appropriate cases to regain jurisdiction over juveniles who previously were convicted as adults.**
- 18. The FACJJ recommends that OJJDP create a program of training and technical assistance focused on the development of comprehensive reentry tools and approaches consistent with national models (i.e., Intensive Aftercare Program, Second Chance Act) to ensure effective implementation and evaluation in state and local jurisdictions.**
- 19. The FACJJ recommends that OJJDP work with states to design, develop, and implement reentry approaches that include agency collaboration to ensure the successful transition to adulthood or to the community for all youth, including crossover youth. Such approaches should address education, life skills, work readiness, and community integration.**

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

- 20. The FACJJ recommends that OJJDP advocate for the development of policies that enable delinquent youth to benefit from services funded through the Adoption and Safe Families Act of 1997 (P.L. 105-89) and the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 11-351) or other services otherwise available through the child welfare system.**

Section 1: Recommendations to the OJJDP Administrator Regarding the Role of the FACJJ

- 1. The FACJJ recommends that OJJDP and the FACJJ participate in a strategic planning process to develop and set in motion a plan to assist OJJDP in becoming a recognized leader in juvenile justice throughout the nation and to define a new role for the FACJJ as it fulfills its responsibilities. The planning process should be led by the FACJJ and OJJDP and include other juvenile justice leaders and organizations.**

The strategic planning process should begin with a national forum on juvenile justice held in conjunction with the reauthorization of the Juvenile Justice and Delinquency Prevention (JJDP) Act, which the FACJJ anticipates will happen in 2010. This forum would provide OJJDP an opportunity to discuss any new JJDP Act language with leaders from around the country and receive input from a wide and diverse group of participants about what OJJDP can do to solidify its role as a national leader in juvenile justice.

The FACJJ and OJJDP should have a facilitated strategic planning session to develop a list of objectives to be achieved and create working subcommittees around each objective. These subcommittees would conduct conference calls with juvenile justice leaders and organizations from across the country culminating with the development of action steps to achieve each objective. These action steps would review the current role of the FACJJ and recommend new ways for the FACJJ to effectively carry out its responsibilities. The objectives and action steps would create a roadmap to help OJJDP achieve its goal of national leadership.

OJJDP Response: Concur in Part

See response to Recommendation 2.

- 2. The FACJJ recommends that OJJDP leaders work with the FACJJ leaders to more clearly align the FACJJ to accomplish the objectives suggested in the strategic planning process identified above in order to meet the needs of OJJDP and to coincide with the reauthorization of the JJDP Act.**

Members of the FACJJ believe that OJJDP and the FACJJ must revisit the structure of the FACJJ for two fundamental reasons.

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

First, the current version of the JJDP Act reauthorization requires that the organization designated under the Act to give advice to the President, Congress, and OJJDP be an independent, nonprofit organization. This language essentially removes this responsibility from the FACJJ and requires OJJDP to support an independent organization to provide such advice. In the FACJJ's 2007 report to Congress, Recommendation 1 supports this language change (see page 16 of the 2007 FACJJ report).

Second, the FACJJ's experience in working under the restrictions in its charter and bylaws has resulted in the committee not being as effective as it might be. The FACJJ charter recognizes the limitations of a federal advisory committee in Section C (scope of activities), which points out that the FACJJ is to carry out the purposes of the JJDP Act within the limits set forth in the Federal Advisory Committee (FAC) Act. Section E of the FACJJ charter further limits the FACJJ by clearly stating that the FACJJ "shall report to the Administrator" of OJJDP. These limitations have resulted in FACJJ training and meeting agendas being changed by OJJDP, despite the FACJJ's significant work to determine these agendas. Also the FACJJ chair has lost the authority to certify the accuracy of official minutes and create subcommittees without the written approval of the designated federal official (DFO). In fact, OJJDP has removed the FACJJ chair's authority to allow a member of the public to comment at a meeting. Overall, the limits have presented significant obstacles to the creation and dissemination of information in order to carry out the purposes of the FACJJ.

Because a new OJJDP Administrator will be appointed soon and the pending reauthorization of the JJDP Act is likely to address the best way to deliver advice to the President and Congress, we believe it is now time for the FACJJ to provide input as to its future. We suggest three possible structures for the FACJJ going forward and present pros and cons for each. Although these three suggestions are not the only possibilities, they represent positions that allow differences to be fully demonstrated. The FACJJ believes that these three options and others, which could result from the strategic planning process proposed in Recommendation 1, would lead to healthy discussions between OJJDP, FACJJ, and other juvenile justice professionals.

Option 1: Maintain FACJJ as It Exists Today

The FACJJ is a chartered federal advisory committee under the FAC Act. As part of the current structure and responsibilities, the FACJJ has issued several excellent annual reports to the President and Congress and to OJJDP with meaningful and well-thought-out recommendations that have the potential to improve juvenile justice practice. The FACJJ has a wide and diverse representation from states and U.S. territories and commonwealths. It has already suffered through the growing pains of a new entity, and perhaps with the new administration and the lifting of present restrictions it could achieve more self-direction. These reasons support maintaining the FACJJ as it exists today.

However, there are several disadvantages in keeping the current structure of the FACJJ. Some would argue that, although the reports have been of excellent quality, they often repeat the same recommendations without any results. The FAC Act states in part that

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

advisory committees should be terminated when they are no longer carrying out the purposes for which they were established.

Under the current charter and the FAC Act, the FACJJ is an advisory committee to OJJDP chartered to advise OJJDP and provide advice to Congress and the President through the Administrator of OJJDP. The FACJJ does not determine meeting agendas. The FACJJ chair cannot establish a subcommittee without the written permission of the DFO. The FACJJ chair has lost the authority to certify the accuracy of meeting minutes and allow a comment from a member of the public at a meeting. The DFO can adjourn a meeting at any time. The system is not set up for unfiltered, independent advice to the President and Congress.

Activity under this structure has been difficult. Training agendas have been changed by OJJDP without the consent of the FACJJ, bylaws have been amended by OJJDP without notice or discussion, at least one report experienced delays in being published, and there are obstacles to effectively disseminating advice. In addition, bylaws that limit members to two 2-year terms cause tremendous turnover in membership. The turnover in FACJJ membership disrupts continuity and routinely eliminates institutional knowledge.

The proposed language in the JJDP Act reauthorization bill makes this option unavailable. This proposed language returns the responsibility for advising the Congress and President to an independent body, which would necessitate a changing role for the FACJJ.

Option 2: Eliminate the FACJJ

As noted earlier, the FAC Act requires terminating advisory committees when they are no longer carrying out the purposes for which they were established. The current version of the reauthorization of the JJDP Act requires that an independent organization provide advice to the President, Congress, and OJJDP. Eliminating the FACJJ and having an independent organization serve in an advisory capacity would solve many of the issues that have resulted from the current structure. These current conflicts could be resolved if a self-directing, independent, representative organization provides the advice.

There are some disadvantages to eliminating the FACJJ. As noted earlier, the advisory committee has issued excellent annual reports and has much unfinished work that could be accomplished over time and with the cooperation of OJJDP. The FACJJ also has outstanding representation from across the country. The vast array of expertise FACJJ members bring to the table educates and informs other members of the FACJJ as well as OJJDP.

Option 3: Restructure FACJJ to Advise OJJDP

A hallmark of the JJDP Act has been the provision of an independent body consisting of representatives from the SAGS to advise the President and Congress on juvenile justice and to make recommendations regarding juvenile justice. This directive has come down

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

intact through decades of congressional reauthorizations of the JJDP Act. In contradistinction, the fundamental purpose of the FAC Act is to establish advisory committees for Executive Branch agencies such as OJJDP. Therefore, the FACJJ, which is currently chartered under the FAC Act, is fundamentally intended to advise OJJDP. This option proposes to restructure the FACJJ to operate as a federal advisory committee. The purpose section of the FAC Act states in part: “Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been commissioned to advise officers and agencies in the executive branch of the Federal Government. . .” The FACJJ currently is one of these committees that is chartered to advise the Administrator of OJJDP, and through that Administrator, to advise Congress and the President.

If the FACJJ were restructured to reflect the purpose of a federal advisory committee that is to advise a federal executive branch agency not the President and Congress, the following potentialities would surface:

- The FACJJ would become a very strong and helpful advisory body to OJJDP, helping the agency to regain and retain national leadership regarding juvenile justice.
- The FACJJ would review and comment on changes to regulations that affect all the states and territories.
- The FACJJ would help direct and/or prioritize juvenile justice research.
- The FACJJ would assist OJJDP in building partnerships with other juvenile justice organizations around the country.
- The FACJJ would help convene forums and conferences on juvenile justice that would translate into additional recommendations to the OJJDP Administrator. Activities to assist OJJDP in regaining its leadership role are plentiful.
- The FACJJ would continue to issue an annual report to the OJJDP Administrator with both a discussion of substantive issues and more specific recommendations concerning OJJDP.
- The FACJJ’s effectiveness would improve as it works within a structure better designed for this work with follow-up directives to OJJDP on its annual set of recommendations.

This option is consistent with many prior recommendations made by the FACJJ and OJJDP’s responses to those recommendations. The following past recommendations from the 2008 annual report to OJJDP are examples of projects that could be undertaken by a restructured FACJJ in partnership with OJJDP:

- **The FACJJ recommends that the OJJDP Administrator, along with the Coordinating Council on Juvenile Justice and Delinquency Prevention, convene a national summit as early as possible with each state’s child mental health director (perhaps in partnership with the National Association of State Mental Health Directors), state Medicaid directors, and state juvenile justice directors to reduce the barriers associated with mental health and**

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

substance abuse issues involved in the juvenile justice system.
(Recommendation 12)

- **The FACJJ recommends that OJJDP conduct a formal assessment of juvenile court practices in states and territories to determine the extent to which juveniles are afforded the right to counsel and whether states and territories have current performance guidelines and/or standards of practice, caseloads standards, and training requirements for attorneys practicing in juvenile courts in the states and territories. *(Recommendation 13)***
- **The FACJJ recommends that once a formal assessment of juvenile court practices has been completed, the OJJDP Administrator should designate a staff person equipped with appropriate resources to assist states and territories in developing performance guidelines/standards of practice and training curricula to ensure the effective assistance of counsel. *(Recommendation 14)***
- **The FACJJ recommends that the OJJDP Administrator allocate additional discretionary funds to the states, territories, and the District of Columbia to develop pilot projects to assess and promote the effective assistance of counsel and to restore discretionary funding to programs that promote the development of standards and training for attorneys who represent children. *(Recommendation 15)***
- **The FACJJ recommends that OJJDP require open, competitive bidding for the award of all of its discretionary grants and that OJJDP rely on independent, external peer review determinations in the selection of discretionary grants. Moreover, it is recommended that OJJDP give appropriate weight to the priority concerns and recommendations of the FACJJ in developing programs and selection criteria for awards funded with discretionary monies. *(Recommendation 17)***
- **The FACJJ recommends that before implementing interim and final interpretations of program monitoring requirements, OJJDP analyze the profound impact these interpretations could potentially have both fiscally and programmatically if implemented on states, territories, and the District of Columbia. [While there has been a significant increase in OJJDP's interpretation of compliance requirements, there has been no balancing increase for resources needed to carry out these mandates.] *(Recommendation 20)***
- **The FACJJ recommends that OJJDP study the application of the Sex Offender Registration and Notification Act (“The Adam Walsh Act”) to juveniles and the long-term consequences of such Act on young offenders. *(Recommendation 23)***

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

The argument against restructuring the FACJJ to solely advise OJJDP is that the advisory council would not be directly advising the President and Congress through its annual reports; another entity would be responsible for that. The FACJJ could, however, work closely with that entity on substantive issues that relate to the advice to the President and Congress and have an impact on OJJDP.

OJJDP Response to Recommendations 1 and 2: Concur in Part

OJJDP acknowledges the immense value of soliciting input from the FACJJ and other juvenile justice leaders and practitioners. The Office also appreciates the important feedback FACJJ members provided at the October 2009 and May 2010 meetings in response to OJJDP's request. During this Administration, OJJDP also has consulted regularly with many sets of external stakeholders. The Office held a series of listening sessions during the first several months of the new Administration, engaging juvenile advocates, practitioners, researchers, and youth in discussions about Federal and local policies and practices. These discussions provided the foundation for an endeavor by the Coordinating Council on Juvenile Justice and Delinquency Prevention, which is chaired by the Attorney General, to thoroughly examine Federal policies in selected juvenile justice matters. The undertaking by the Coordinating Council also included a series of listening session beginning with the May 2010 session with the FACJJ. Feedback from these sessions and responses to a formal request for public comment posted in the *Federal Register* are being incorporated into the Coordinating Council's efforts to improve Federal policy and program. OJJDP looks forward to sharing the results of these efforts with the many juvenile justice advocates who look to OJJDP for national leadership.

With respect to the FACJJ, OJJDP agrees that a restructured FACJJ is needed, and OJJDP has initiated that process. The restructured FACJJ is anticipated to include SAG representation along with representation from specific sectors including tribal communities, youth, and researchers. It is proposed that the FACJJ will be organized to allow for rapid response to pending legislation and Administration priorities including, for instance, disaster preparation for children and youth, child protection matters, education issues, and compliance issues. In addition to input already received from the FACJJ members, OJJDP will seek additional thoughts at the December 2010 meeting concerning the process of selecting SAG representation to the FACJJ and the disciplines or sectors important to include on the restructured FACJJ.

Section 2: Recommendations to the OJJDP Administrator Regarding Juvenile Justice Needs

- 3. The FACJJ commends the U.S. Department of Justice (DOJ) and the OJJDP Administrator for supporting Senate Bill 678, which reauthorizes the JJDP Act.**

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

The FACJJ commends DOJ for going on record in support of Senate Bill 678. Assistant Attorney General Ronald Weich's letter of April 15, 2010, to Senator Patrick J. Leahy, Chairman of the Committee on the Judiciary, expressing strong support for reauthorizing the JJDP Act, was welcomed by the FACJJ. The advisory council also appreciates Acting OJJDP Administrator Jeff Slowikowski's support of the bill and his expression of this support to leaders in DOJ.

OJJDP Response: Concur

OJJDP appreciates the commendation and concurs with the FACJJ on the importance of reauthorizing the JJDP Act to ensure that full protections are accorded to the youth in the juvenile justice system. The Office will continue to support reauthorization efforts.

- 4. The FACJJ recommends that OJJDP support additional funding for the formula grants program of the JJDP Act in order to support continued work in the JJDP Act core protections and to implement changes contained in the proposed reauthorization language.**

The formula grants program of the JJDP Act has been an effective modus operandi in bringing substantial change and innovative programming to juvenile justice throughout the states, territories, and the District of Columbia. Through continuing refinement of best practices while balancing the protections for the individual juvenile with the maturing effects of accountability, the formula grants program has offered countless youth the opportunity to succeed and grow. It has offered communities the incentive to augment each grant award with local funding. It has generated an ongoing investment in juvenile justice careers. It has provided communities with a consistency of responses that meet specific juvenile needs and protect public safety. Unfortunately, the formula grants program has been asked to maintain all of this and its strong reputation while at the same time the annual congressional appropriation has been eroded into a skeletal shell of its former funding level. Appropriations are now at one-fourth the level they were in 2002. The cost-effectiveness of the prevention programs funded under the formula grants program have been adequately demonstrated and well documented. The annual Data Collection and Technical Assistance Tool (DCTAT, OJJDP's performance data reporting tool) report to OJJDP on the effectiveness of the individual Title II program speaks to the high level of satisfaction that the individual, the family, and the community report on their involvement with each specific program.

OJJDP Response: Concur

OJJDP supports increasing the minimum allocations for States and territories to allow these entities to provide more funding to address the core requirements of the JJDP Act and to support program areas identified in their 3-year plans. States will be able to improve their juvenile justice systems, increase programming for identified priority areas, reduce the number of youth entering the juvenile justice system, reduce the number of youth returning to secure custody, and reduce

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

violations of the core requirements of the JJDP Act. States and territories will be able to hire staff to more closely monitor for compliance with the core requirements; provide training and technical assistance to facility staff and administrators, judges, and others in the juvenile justice system; and improve States' compliance with the core requirements of the JJDP Act. While OJJDP supports increased funding, we are always bound by congressional appropriations.

- 5. The FACJJ recommends that the OJJDP Administrator strengthen disproportionate minority contact (DMC) efforts, initiatives, and programs to reduce and eliminate racial and ethnic disparities that adversely impact youth of color.**

Every youth in this country is entitled to a juvenile justice system that is fair and equitable, and as a nation we are entitled to a juvenile justice system that is effective at its mission. FACJJ believes that the mission of our juvenile justice system is to equitably promote rehabilitation and accountability of youth and ensure public safety. This can be accomplished by making smart choices about juvenile justice legislation and programs. Federal, state, and local legislation should be based on research findings about what is most effective in preventing and reducing juvenile crime and in making communities safer.

Tremendous inequities exist when it comes to dealing with children and juveniles, the child welfare system, the education system, and the juvenile justice system. These inequities make it more difficult for the juvenile justice system to focus on rehabilitating the majority of juvenile offenders. The disparities in the juvenile justice system know no borders, crossing a broad continuum, from law enforcement and arrest to the legal system's handling of juvenile offenders to the corrections system. Inequities exist as well in the availability of and access to community resources. A number of factors can contribute to the pervasive inequities in the juvenile justice system: gender, race and ethnicity, cultural diversity, poverty and other socioeconomic issues, substance abuse and mental health issues, and home and school environments. Although OJJDP has worked diligently with states to reduce DMC, the Office must continue and strengthen these efforts.

OJJDP Response: Concur

Per Section 223(a)22 of the Juvenile Justice and Delinquency Prevention Act of 1994, as amended, participating States must *“address juvenile delinquency prevention efforts and systems improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of the minority groups, who come in contact with the juvenile justice system.”* As a result, the OJJDP Administrator can only mandate that States participating in the Act address disproportionate minority contact (DMC) via delinquency prevention and systems improvement efforts.

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

It is worth noting that OJJDP supports strengthening and enhancement of DMC efforts through reauthorization of Senate Bill 678.

Disproportionality indicates a difference in how minority youth are processed in the juvenile justice system compared to white non-Hispanic youth but does not explain why it is occurring. Because disproportionality indicates intentional and/or unintentional bias, racial and ethnic disparities can be a result or contributing mechanism. Other contributing mechanisms identified by empirical research include differential opportunities for prevention and treatment, justice by geography, inappropriate decision making criteria, indirect effects (e.g., socioeconomic factors), and laws, policies, procedures, and regulations (e.g., zero-tolerance policies and three-strikes laws).

OJJDP provides training and technical assistance to States and localities on a wide array of delinquency prevention and systems improvement strategies and continues to produce various publications. In addition to these efforts, targeted initiatives have been designed to strengthen and enhance State and local activities:

- **DMC Assessments:** States will be required to conduct DMC assessments by March 2012. The assessment process will look carefully at the decision points that the identification process has targeted to determine how DMC is created or amplified, specifying the mechanisms that contribute to DMC in State or local jurisdictions. The outcome of the assessment study should be used as a guide to implement effective delinquency prevention and systems improvement activities to reduce DMC throughout the juvenile justice system.
- **Community and Strategic Planning (CASP) Demonstration Project:** The purpose of the CASP Project is to provide effective strategies to facilitate State and local DMC initiatives. These include hiring and/or designating staff as DMC Coordinators, facilitating OJJDP's DMC Reduction Model, tracking expenditures of the DMC portion of the Title II Formula Grant and/or other funds, providing training to local jurisdictions and stakeholder agencies, and assisting with conducting a process evaluation. Local DMC reduction sites will engage in community capacity building activities that include implementing a community collaborative, conducting a local assessment, and helping the State DMC Coordinator to monitor delinquency prevention and systems improvement activities. OJJDP expects to make four awards for up to \$40,000 from October 1, 2010 to September 30, 2011.
- **Native American/Alaska Native Interagency Initiative:** OJJDP implemented the Native American/Alaska Native Interagency Initiative in response to state DMC Coordinators' concerns regarding the extent of DMC among these youth throughout the juvenile justice system. OJJDP

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

convened a workgroup with representatives from the Bureau of Justice Statistics, the Bureau of Indian Affairs, and the Justice Research and Statistics Association (JRSA). The primary goals of this initiative are to determine the extent of DMC (particularly in States with significant Native American/Alaska Native populations), further examine how these youth are processed compared to other minority youth, ascertain how cultural needs are addressed, identify existing promising delinquency prevention and systems improvement strategies, and update the Title II Formula Grant pass-through allocation.

- **Relative Rate Index (RRI) Improvement Project:** The purpose of this initiative is to assist States and territories in determining the extent of disproportionality via the Relative Rate Index (RRI) when the minority youth population comprises the majority of youth ages 10 to 17. Currently, these jurisdictions have difficulty collecting and/or analyzing RRI data, thereby preventing them from effectively addressing each subsequent phase of OJJDP's DMC Reduction Model.
6. **The FACJJ recommends that OJJDP immediately launch an initiative to help states make the transition that will come with ending the Valid Court Order (VCO) exception, which currently allows states and territories to securely detain status offenders who have violated a court order regarding disposition of the original status offense.**

Ending the VCO exception, consistent with the pending reauthorization language, will have a major impact on local juvenile justice systems nationwide. OJJDP has a vital role in helping to make this transition occur in a safe and productive manner. States and territories will need technical assistance, help in assessing the current VCO situation in their states, public education campaigns and materials, judicial training, and other activities to help them implement this change.

OJJDP Response: Concur

OJJDP has already undertaken two actions in anticipation of this transition: (1) the Office created a position for a full-time detention specialist, and (2) the Office has made an award to provide training and technical assistance to assist States with detention issues and best practices. These two mechanisms will provide support to help States through the VCO transition.

OJJDP will first reach out to those States affected by removal of the VCO exception to determine what they most need in the way of training and assistance. Based on the responses from the States, OJJDP will develop targeted training and educational materials on promising and best practices for the various players in the juvenile justice system to meet the States' needs. OJJDP will look at a variety of ways to provide training and education, including webinars, "online university," development of a "Guide to Transitioning From the

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

VCO,” a project to team States that use the VCO with States that do not to show how non-VCO States handle status offenders without holding them securely, and sessions on the VCO transition at the October 2011 OJJDP National Conference.

- 7. The FACJJ recommends that OJJDP disseminate best practices related to identifying and responding to the trauma experienced by the youth referred to our nation’s child welfare and juvenile justice systems.**

Youth in the child welfare system who are victims of abuse, neglect, or other maltreatment often end up in the juvenile justice system—a system that in many jurisdictions is not equipped to adequately address the history of abuse and neglect that may have led these youth to the juvenile justice system. Many of these youth may have been exposed to violence or other traumatic events, such as witnessing domestic or community violence. Youth exposed to traumatic events have an increased risk of becoming involved with both the child welfare and the juvenile justice systems, yet this exposure is often overlooked in the assessment and treatment of youth in the juvenile justice system (Ford et al., 2007).

OJJDP Response: Concur

Research confirms that exposure to violence is associated with long-term physical, psychological, and emotional harm and that children exposed to violence are also at a higher risk of engaging in criminal behavior later in life and of becoming part of a cycle of violence. The Attorney General has launched the new Defending Childhood Initiative to address a persistent and unacceptable problem—the exposure of America’s children to violence as victims and as witnesses—by piloting and disseminating best practices. Defending Childhood builds on the OJJDP Safe Start initiative (which was begun during the Clinton Administration and incorporated within then Deputy Attorney General Holder’s Children Exposed to Violence Initiative).

Multiple DOJ components and the U.S. Departments of Health and Human Services and Education joined the Defending Childhood Initiative as our partners. Other Federal agencies are expected to join over the coming months. A series of Fact Sheets, Bulletins, and Web resources will be used by the Federal partners to disseminate best practices.

Additionally, the Safe Start Initiative produced a series of tools and technical assistance materials that juvenile justice professionals can use to assess the scope of children’s past exposure and/or risk for future exposure to violence. These tools, which include suggested strategies for mediating the effects of exposure, are available at www.safestartcenter.org.

- 8. The FACJJ recommends that OJJDP develop an ongoing partnership with law enforcement agencies and associations around the country to develop a**

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

**comprehensive set of tools for law enforcement to use in addressing
disproportionate minority contact (DMC) within the juvenile justice system.**

These tools would include training, technical assistance, model policies, community forums, and school and community engagement models grounded in data monitoring outcomes to ensure effectiveness. Law enforcement trainings would use best practices identified as having a significant impact on reducing DMC. OJJDP could develop and implement these trainings in collaboration with the International Association of Chiefs of Police (IACP), the National Sheriffs' Association (NSA), and other law enforcement entities in order to broadly disseminate DMC training, and at the same time offer technical assistance for individual law enforcement agencies. This widely disseminated training would ensure that law enforcement officers across the country have access to the training, and the cumulative effect on DMC would be measurable. OJJDP could research innovative approaches that address DMC for law enforcement practitioners and refine best practices as effective solutions are discovered. There would thus occur a tipping point of acceptable and basic law enforcement practices that could address and reduce DMC within the juvenile justice system.

OJJDP Response: Concur

See response following Recommendation 11.

- 9. The FACJJ recommends that OJJDP develop and implement law enforcement training that uses best practices for having an impact on DMC, and partner with the International Association of Chiefs of Police (IACP) and the National Sheriffs' Association (NSA) to disseminate DMC training and provide technical assistance across the country.**

OJJDP Response: Concur

See response following Recommendation 11.

- 10. The FACJJ recommends that OJJDP work with national law enforcement associations such as IACP, NSA, and others to widely disseminate this training and ensure that law enforcement officers across the nation have access to this training.**

OJJDP Response: Concur with Comment

See response following Recommendation 11.

- 11. The FACJJ recommends that OJJDP continue to research innovative approaches to addressing DMC for law enforcement professionals.**

FACJJ makes these three recommendations because the disproportionate representation of minority youth in the juvenile justice system usually begins with their initial encounter

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

with law enforcement. The latest juvenile arrest data from the U.S. Department of Justice show that, although African American youth made up 16 percent of the U.S. juvenile population ages 10 to 17, they accounted for 52 percent of all the juveniles arrested for violent crimes in 2008 (Puzzanchera, 2009).

Although DMC and other inequities must be addressed at all levels of the juvenile justice system, police decision making may contribute to the level of DMC in the juvenile justice system. Police often must make rapid decisions based on limited informational cues. Readily observable characteristics such as race, gender, and demeanor are some of the cues that initially shape officers' assessments when responding to calls to investigate or arrest suspects.

Police exercise a wider range of discretion when dealing with juveniles who have committed less serious offenses. Increased discretion can augment opportunities for subconscious and biased decision making. Researchers who examined statistics from the FBI's National Incident-Based Reporting System found no direct evidence that an offender's race contributes to a police decision to make an arrest. They did find, however, an indirect bias in that nonwhite juveniles are more likely to be arrested when the victim is white than when the victim is nonwhite (Pope and Snyder, 2003).

The first step in rectifying this is to understand that there is a problem of disparate impact. Since law enforcement officers are the first contact with the juvenile justice system for most youth, law enforcement policymakers and officers must be aware of the data regarding racial disparity in their communities. Interventions that have achieved measurable results in reducing racial and ethnic disparities in the juvenile justice system include using data and focusing on juvenile justice decision making and policy mandates that disparately affect youth of color in the system.

As communities and jurisdictions create multiple DMC reduction interventions and enhance pre-existing interventions, it is important that they develop coordinated law enforcement training plans that incorporate data and focus on policy mandates and factors other than crime that may contribute to law enforcement decisions to arrest a juvenile. To be effective, efforts to reduce DMC must involve a broad base of stakeholders and include cultural diversity and communication training in order to heighten awareness of DMC.

OJJDP can help juvenile justice jurisdictions more effectively address DMC by working with national law enforcement organizations to develop and widely disseminate training programs. OJJDP could further assist jurisdictions by funding research that identifies effective practices that enhance law enforcement responses to DMC.

DMC is a complex and multifaceted problem that reaches across all spectrums of the juvenile justice system. But because disparate treatment of minority juveniles often begins at arrest, even though this cannot be explained by focusing on the individual crime, it is critical that OJJDP help law enforcement agencies address the DMC issue.

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

OJJDP Response: Concur

OJJDP is currently reviewing law enforcement curricula from Connecticut, Pennsylvania, and Wisconsin to determine whether they reduce or mitigate DMC, and if so to what extent. These curricula use unique approaches to reducing DMC at the arrest contact point by engaging youth, using law enforcement officers to train their peers, facilitating community forums with youth in their communities, and providing grants to law enforcement agencies that have been certified as trainers. To ensure wide dissemination of two of the States' approaches, OJJDP featured Connecticut's curriculum at the State Relations and Assistance Division's 2009 DMC Conference in Austin, Texas. This conference included an 8-hour training for juvenile justice specialists, State and local DMC coordinators, compliance monitors, and other juvenile justice and child welfare system stakeholders and a 2-day Trainer of the Trainers for law enforcement and school resource officers only. Materials from Pennsylvania's curriculum are included in OJJDP's *DMC Technical Assistance Manual*, 4th Edition (2009).

As a result of the efforts of OJJDP and these three States, other jurisdictions have requested and/or received training on Connecticut and Pennsylvania's curricula and are in various stages of implementation. Because of these three States' knowledge about the JJDP Act's core requirements, their established relationships with juvenile justice system stakeholders (including law enforcement, schools, communities, and youth), and their experience conducting trainings in other States and localities, OJJDP will continue to collaborate with Connecticut, Pennsylvania, and Wisconsin to disseminate their curricula. OJJDP has also proposed the DMC Evaluation and Pilot Program to empirically evaluate States' and local jurisdictions' delinquency prevention and systems improvement activities to reduce and/or mitigate DMC. As with all programs and strategies on the delinquency prevention and juvenile justice continuum, OJJDP continues to help States and localities submit effective, exemplary, and promising programs into its *Model Programs Guide* (<http://www.ojjdp.ncjrs.gov/mpg/>) and DMC Best Practices Database (http://www2.dsgonline.com/dmc/dmc_default.aspx).

12. The FACJJ recommends that OJJDP establish guidelines for diversion programming for youth that focuses on diverting youth from the formal juvenile justice process. These guidelines may include recommendations for eligibility and best practices in diverting youth from the system.

The FACJJ recommends that OJJDP promote pretrial diversion programs through its *Model Programs Guide*. The program guide currently lists 209 programs; however there are no programs listed that specifically address pretrial diversion. OJJDP should add a search criterion under Program Type specifically for pretrial diversion. Solicitations for model programs should target existing diversion programs that demonstrate effectiveness according to currently established guidelines. Such dissemination would greatly benefit professional knowledge and expansion of diversion programs nationwide. To ensure

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

program development, OJJDP should make intensive technical assistance available across the nation by experts who have developed and sustained programs.

OJJDP Response: Concur

OJJDP concurs that this would be a useful endeavor to establish best-practice guidelines for diversion programming. The juvenile justice literature is filled with summaries of diversion programs, and OJJDP will survey the literature and provide research-based suggestions for State and local diversion programs to use as guidelines to divert youth from formal justice system processing.

13. The FACJJ recommends that OJJDP provide training and technical assistance for all juvenile justice stakeholders on promising and best practices for diversion programs and promote long-term, sustained funding for these programs.

Diversion programs benefit society and delinquent youth and their families by dealing early and quickly with delinquent behavior, easing the overcrowding of secure detention facilities, and reducing the workload and costs of police departments and court systems. Diverting juvenile offenders to diversion programs could keep less serious offenders from moving deeper into the juvenile justice system and allow the courts to save the most severe and costly sanctions for the most serious offenders. Although a number of states and communities have implemented and evaluated diversion programs in their jurisdictions, there is a limited amount of comprehensive information and research about diversion programming.

Juvenile justice practitioners and policymakers need a unified direction across the nation for diversion programs. There is much diversity in the types of programs included under the diversion umbrella. The field needs a common definition of diversion and the types of programs that meet the definition. The definition should include a commonly accepted set of eligibility criteria and include needs and risk assessment instruments, screening and assessment, uniform guidelines, and a standardized protocol. Standards established by organizations such as the National Association of Pretrial Services Agencies and the Nebraska Crime Commission should be incorporated into universally accepted standards. These standards should identify who is responsible for administering diversion programming and how access would be given fairly and equitably to include a wider range of delinquent offenders. These standards should encourage collaboration among all stakeholders in the system.

OJJDP Response: Concur

Within the limitations of the budget, OJJDP currently makes available assistance through its National Training and Technical Assistance Center (NTTAC) for juvenile justice stakeholders. OJJDP is not in a position to provide such resources to “all juvenile justice stakeholders.” OJJDP can, however, promote and suggest the value of long-term, sustained funding for diversion programs and will pursue

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

writing a publication that assesses, describes, and promotes best practices in diversion programming.

- 14. The FACJJ recommends that OJJDP help reform transfer and waiver policies by advocating for the narrowing of direct file and automatic transfer statutes, which allow or require the prosecution of certain juvenile cases in the adult criminal justice system, while working with states to increase the continuum of dispositional options available through the juvenile court.**

OJJDP Response: Concur in Part

See comment following Recommendation 17.

- 15. The FACJJ recommends that OJJDP advocate for the development of policies to aid the exercise of prosecutorial discretion in making decisions to transfer juvenile cases to criminal court.**

The FACJJ makes Recommendations 14 and 15 because of the need to reform juvenile transfer laws and policies. In response to significant growth in juvenile arrest rates for violent offenses during the 1980s and early 1990s, state laws allowing the transfer of juveniles to adult court for trial were broadened to facilitate the transfer of juveniles charged with a wide spectrum of offenses (Bureau of Justice Statistics, 1999).

In retrospect, the measures enacted to facilitate transfers may have been unnecessary. There is reason to believe that they may even be counterproductive when it comes to reducing juvenile crime and protecting public safety. In fact, they may increase recidivism rather than decrease it (Coalition for Juvenile Justice, 2005).

Juvenile transfer laws are comprised of three basic procedures: statutory exclusions from juvenile court jurisdiction on the basis of the age of the offender or the offense that is charged; direct election by the prosecutor to file for transfer based on the offense that is charged; and judicial waiver of juvenile court jurisdiction after individualized consideration of a broad array of offense, offender, and other criteria.

Statutory exclusion laws exist in 29 states (Griffin, 2003). In 13 states, juveniles are transferred simply because the legal age of majority is less than 18 years. In some states, juveniles as young as 16 are deemed to be adults (Bozynski and Szymanski, 2004). In other states this method is characterized by the exclusion from juvenile court of youth who are charged with offenses that are designated by statute. The number and severity of the excluded offenses varies widely from state to state.

In 2005, the Coalition for Juvenile Justice (CJJ) released *Childhood on Trial: The Failure of Trying and Sentencing Youth in Adult Criminal Court*, which examines the history of juvenile transfer laws and policies. Using data from 1999, CJJ reports that more than 250,000 juveniles have their cases transferred to adult criminal court each year in the United States. The overwhelming majority of these cases, nearly 220,000, are the result

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

of statutory exclusion laws. In these cases, juveniles are transferred without any individualized scrutiny of the offense, the offender, or the needs of the community.

The direct file method is used in 15 States (Snyder and Sickmund, 1999). This method allows broad prosecutorial discretion to determine which cases to transfer among those in which an offense is charged for which direct file is authorized by statute. The local prosecutor simply gives notice and files for transfer of the case. This model accounts for the second largest group of juvenile transfers. CJJ reports that approximately 27,000 juveniles were transferred in 1999 by this method at the sole discretion of the local prosecutor.

The third method of procedure involves a judicial waiver of juvenile court jurisdiction. This method accounts annually for the smallest number of transfer cases. CJJ reports that approximately 7,500 cases were transferred to adult court by this method (Coalition for Juvenile Justice, 2005). It is characterized by the opportunity for a full adjudication of the transfer issue on its merit, with the ultimate decision being left to the court's discretion.

There is reason to believe that the prevalence of transfers in recent times has produced unintended, even counterproductive, consequences for juveniles and for the communities in which they live. Studies have found that the majority of juveniles who have been transferred to the adult system committed nonviolent property and drug-related crimes rather than violent offenses (Coalition for Juvenile Justice, 2005). It has also been found that few juveniles who have been transferred to the adult system actually serve sentences in adult prisons. They are more likely to receive a jail sentence or to be placed directly on adult probation. It is fair to ask whether the juvenile—or the community—is better served by a system that is designed to supervise adults or by a juvenile system that is specially tailored to meet the rehabilitative and developmental needs of a young person.

FACJJ believes that the two recommendations listed above would help reduce the number of juveniles inadvisably transferred each year to adult court.

OJJDP Response: Concur in Part

[See comment following Recommendation 17.](#)

16. The FACJJ recommends that OJJDP advocate for the adoption of reverse waiver statutes in jurisdictions where such procedures do not currently exist.

There are several components of existing transfer laws that can help to prevent transfers or ameliorate their negative consequences if the components are adopted and effectively used in an increased number of states, including reverse waiver.

In 25 states, reverse waiver procedures enable the remand of a case to juvenile court upon finding that the case was unlawfully or improvidently transferred. The adoption of reverse waiver provisions in states without such statutes provides a means by which to minimize the number of transferred cases while increasing the frequency with which

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

juveniles are sentenced to juvenile facilities or to probation that incorporates age-appropriate services.

OJJDP Response: Concur in Part

See comment following Recommendation 17.

17. The FACJJ recommends that OJJDP encourage states to adopt statutes that enable juvenile courts in appropriate cases to regain jurisdiction over juveniles who previously were convicted as adults.

While young people must be held accountable and punished for their criminal activity, adolescents are also fundamentally developmentally different from adults and therefore uniquely amenable to treatment and rehabilitation. Current research about adolescent development has confirmed significant differences in maturity levels between adults and juveniles, differences that are reflected in both adolescent behavior and biological differences in the juvenile brain. Adolescents display heightened sensitivity to immediate rewards and are less able to control their impulses or to regulate their own emotional responses, further impeding their decision making skills. Research on the brain conducted in the past decade has provided extensive evidence that the part of the brain (the prefrontal cortex) that figures heavily in response inhibition, emotional regulation, decision making, and evaluation of consequences does not mature until early adulthood. In fact, the portions of the brain that *motivate* risky and reward-based behavior (including the amygdala, which generates the “fight-or-flight” response) develop faster and prior to those that regulate behavior and are accompanied by a corresponding excess in the presence of reward/risk-seeking neurotransmitters (dopamine) and lack of inhibitory neurotransmitters (serotonin) that further compromise adolescents’ decision making processes. This scientifically grounded understanding of adolescent development and its implications for adolescent culpability and rehabilitation has been recognized by the United States Supreme Court in *Roper v. Simmons*.

In light of our understanding of adolescent brain development and adolescents’ particular capacity for positive development and rehabilitation, as well as our changing understanding of the nature and scope of youth crime, it may be appropriate in some cases for a juvenile’s case to be returned to the juvenile justice system. While youth convicted of serious, violent crimes must be held accountable for their crimes, they must also be given the opportunity to demonstrate, where appropriate, that they have been successfully treated and rehabilitated. It is more appropriate that the rehabilitation process be handled by the juvenile justice system.

OJJDP Response to Recommendations 14–17: Concur in Part

OJJDP appreciates the FACJJ’s concerns and thoughtful analysis regarding the waiver or transfer of youth into the adult criminal justice system. Its leadership and staff will be encouraged to consider the recommendations and associated narrative in the development of OJJDP policy and programs, particularly in

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

relation to research, training and technical assistance, and information dissemination to policymakers, criminal and juvenile justice practitioners, and many others.

To date, OJJDP has supported the wide dissemination of its Bulletin *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* (Redding, 2010). Most recently, it produced hard copies of this Bulletin to further its dissemination at conferences and other forums. This Bulletin provides an overview of research on the deterrent effects of transferring youth from juvenile to criminal courts, focusing on large-scale, comprehensive OJJDP-funded studies on the effect of transfer laws on recidivism. The Bulletin reviews all of the extant research on the general and specific deterrent effects of transferring juveniles to adult criminal court. It was originally released online in 2008.

In addition, the U.S. Department of Justice has submitted a letter in support of S. 678, the reauthorization of the Juvenile Justice and Delinquency Prevention (JJDP) Act, to Senator Leahy, Chairman of the U.S. Senate Judiciary Committee. This bill has provisions that would enable OJJDP, upon enactment, to address conditions of confinement for certain youth under adult criminal court jurisdiction, such as:

- Extension of the JJDP Act's sight and sound and jail removal core requirements to youth under adult criminal court jurisdiction awaiting trial.
- Modification of the current definition of "adult inmate," which provides States with the flexibility to allow youth under adult criminal court jurisdiction to remain in juvenile facilities until they reach the age of extended juvenile court jurisdiction.

18. The FACJJ recommends that OJJDP create a program of training and technical assistance focused on the development of comprehensive reentry tools and approaches consistent with national models (i.e., Intensive Aftercare Program, Second Chance Act) to ensure effective implementation and evaluation in state and local jurisdictions.

OJJDP Response: Concur in Part

See comment following Recommendation 19.

19. The FACJJ recommends that OJJDP work with states to design, develop, and implement reentry approaches that include agency collaboration to ensure the successful transition to adulthood or to the community for all youth, including crossover youth. Such approaches should address education, life skills, work readiness, and community integration.

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

OJJDP Response to Recommendations 18 and 19: Concur in Part

OJJDP shares the FACJJ's interest in the importance of training and technical assistance for effective implementation and evaluation of juvenile reentry programs throughout the country. A mechanism already exists to provide training and technical assistance; however, OJJDP acknowledges that evaluation resources for reentry programs are insufficient. The National Reentry Resource Center (NRRC), operated through the Bureau of Justice Assistance, provides education, training, and technical assistance to States, tribes, territories, local governments, service providers, nonprofit organizations, and corrections institutions working on both adult and juvenile reentry. Signed into law on April 9, 2008, the Second Chance Act (Public Law 110-199) was designed to improve outcomes for people returning to communities from prisons, jails, and juvenile facilities. This first-of-its-kind legislation authorizes Federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support, and other services that can help reduce recidivism. The Second Chance Act has provided useful guidance about the key elements of a comprehensive, effective reentry effort and much-needed resources to support implementation. The Act has also elevated the issue of reentry nationwide and helped to greatly increase the number of jurisdictions that are working on reentry. When done right, these efforts will increase public safety, reduce recidivism, and prevent future victimization.

OJJDP will make an additional 12 grants to States, units of local government, and Native American tribes to implement juvenile reentry programs under the fiscal year 2010 Second Chance Adult and Juvenile Offender Reentry Program.

To further the goal of the NRRC to provide training and technical assistance to adult and juvenile reentry programs, there is a Juvenile Justice Advisory Committee that focuses exclusively on juvenile reentry issues. This committee plans to conduct site visits for the Second Chance Act juvenile justice sites, prepare training and technical assistance materials for the field, and conduct webinars on topics of interest to the sites. Advocating for a separate training and technical assistance component would be duplicative and wasteful. OJJDP will identify ways to expand upon what is currently being done by NRRC. OJJDP will advocate for additional funding through the Second Chance Act to specifically evaluate juvenile justice sites in FY 2011.

In addition, OJJDP continues to work collaboratively with the U.S. Departments of Health and Human Services, Education, Labor, Housing and Urban Development, and other agencies on juvenile reentry and transition to adulthood issues. In fact, juvenile reentry and transition to adulthood is one of the four major issue areas being addressed by the Coordinating Council on Juvenile Justice and Delinquency Prevention in 2010. The working group studying this

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

issue will make policy recommendations to the Coordinating Council that address barriers and strategies for more effective programs to serve this population.

20. The FACJJ recommends that OJJDP advocate for the development of policies that enable delinquent youth to benefit from services funded through the Adoption and Safe Families Act of 1997 (P.L. 105-89) and the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 11-351), or other services otherwise available through the child welfare system.

A juvenile offender who is released from a facility after adjudication or conviction or a youth who ages out of the child welfare system faces reentry into his or her family and community. These youth often experience serious difficulty transitioning into adulthood. Community-based aftercare or reentry programs are sometimes made available to help these youth and their families adjust and to help prevent further delinquency.

An estimated 100,000 juvenile offenders are released annually from secure correctional institutions including juvenile facilities, jails, and adult prisons (Barton, 2006). Many juveniles leaving these facilities have multiple risk factors, are struggling with co-occurring mental health and alcohol and drug issues, and have difficulty succeeding in school. Findings from the first Survey of Youth in Residential Placement (SYRP), conducted in 2003, indicate these problems often are not sufficiently addressed in residential facilities. In addition to not receiving these services, juveniles in many facilities may be exposed to violence and trauma that leave them even more troubled when they are released from custody (Steinberg, Chung, and Little, 2004).

These problems are likely to be further compounded when these juveniles are sent back, unprepared, to the surroundings that may have contributed to their delinquent or violent acts in the first place: communities that have high rates of crime and poverty, poor performing schools, and a lack of community health and social services. Crossover youth are especially vulnerable to future difficulties because they often come from abusive or neglectful families. To successfully reenter into their families and communities, these juveniles need aftercare services that can help them develop the skills and protective factors they need to resist further risky and delinquent behavior and, ultimately, to avoid returning to custody.

Despite this need, many State and local juvenile justice and child welfare systems do not focus on or provide aftercare or reentry programs for juvenile offenders. Much of the current work in juvenile justice is focused on the front-end issue of confinement, not on the back end of reentry. The result is that little is known about the effective reentry of juveniles. Statistical information and research on juvenile reentry is scarce. Although research on reentry has been conducted, much of it does not take into account the significant developmental differences between juveniles and adults and their respective roles in their families and communities (Sullivan, 2004).

OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

The ultimate goal of the juvenile justice system is to promote accountability and rehabilitation of juvenile offenders and to ensure public safety. Juveniles who are released from institutional facilities have a greater chance of succeeding and are less likely to recidivate if they have access to quality reentry and aftercare services. Juvenile offenders who learn to thrive in a noninstitutionalized setting will ultimately spend less time in confinement, reducing overall costs to the juvenile justice system and to taxpayers.

Reentry can be difficult. Juveniles leaving a juvenile correctional setting or other secure facility experience a double transition. In addition to changing environments, from a secure setting to a community setting, these juveniles also face physical, cognitive, emotional, and social changes. Understanding this double transition is critical to developing effective reentry/aftercare programs that acknowledge and address the holistic reintegration needs of juveniles leaving secure settings (Altshuler and Brash, 2004).

Youth aging out of the child welfare system face many of these same challenges and have to cope with other challenges as well. They most likely don't have strong social or family networks to help them successfully transition to independence and adulthood. They may have experienced educational difficulties that contribute to a lack of job training. Past abuse or neglect may make it difficult for them to form the supports necessary to overcome these issues

Ideally, reentry efforts should begin before a juvenile is released from a facility or from the child welfare system. However, correctional institutions typically focus on the offender and provide little or no direct involvement with the offender's social network (e.g., family, friends, other peers, informal supports) and other potential community-based resources and supports. Focusing on offender change while offering little access to the social networks offenders must rely on in the community is a contradiction between the goals of juvenile confinement and the goals of successful community reintegration.

OJJDP Response: Concur

Although adoption and child welfare are primarily the purview of the U.S. Department of Health and Human Services, OJJDP shares the FACJJ's concern about ensuring that all available resources are made accessible to help at-risk and delinquent youth successfully transition to adulthood. As noted in the response above, the Coordinating Council has identified juvenile reentry and transition to adulthood as one its major issues. The difficulties faced by crossover youth, those involved in both the child welfare and juvenile justice systems, have been raised by the team examining this issue. The team is developing recommendations that address the need for appropriate coordinated planning and aftercare services as part of efforts to ensure that crossover youth receive the help they need for successful reentry.

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OJJDP Responses to the 2010 FACJJ REPORT TO THE OJJDP ADMINISTRATOR

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