



To: Robert L. Listenbee, Administrator  
Office of Juvenile Justice and Delinquency Prevention (OJJDP)

From: Jim Moeser, Chair; Dalene Dutton, Vice-Chair  
Federal Advisory Committee on Juvenile Justice (FACJJ)

Re: Recommendations adopted by the FACJJ at the October 2014 meeting

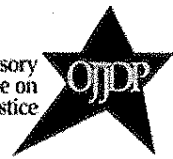
Date: 12/18/2014

First, on behalf of the FACJJ, we want to extend our appreciation for the time you spent with us at our October 2014 meeting and for the information and vision you provided to us. We also extend our appreciation to all the OJJDP and supporting staff who helped make the October FACJJ meeting successful. We take special note of and appreciate the attention you have given to the recommendations we approved in 2013 and the activities undertaken to respond to them. As we listened to the recommendations from the National Academy of Sciences, and scanned the nature of recommendations coming from others in the field, it is worth noting that there is strong support for the leadership role that OJJDP plays in promoting juvenile justice reforms that help build safe and strong families and communities and benefit justice-involved youth.

However, the main purpose of this communication is to present the recommendations adopted by the FACJJ at the meeting on October 21 for your consideration and review. You may recall that during much of this past year the FACJJ effort was directed at seeking input from a variety of stakeholders including State Advisory Groups, Juvenile Justice Specialists, Disproportionate Minority Contact Coordinators, and other national stakeholder groups. Along with those recommendations, the document attached provides additional summary information about the process we undertook and context for the recommendations approved. We look forward to continued dialogue about these recommendations while simultaneously turning our attention to other issues identified by stakeholders or FACJJ members. As always, we stand ready to respond to issues and concerns that you may identify for which FACJJ input could be helpful.

Forty years ago, with the passage of the Juvenile Justice and Delinquency Prevention Act, the federal government took a giant step toward promoting a vision for juvenile justice that served both youth and our communities. With that in mind, you will also note that our first recommendation is directed toward Congress and the President to fund juvenile justice efforts in a manner consistent with the charge to OJJDP and the important role OJJDP plays in partnering with states to make our communities safer and provide opportunities for youth to become successful.

Thank you for your support and consideration.



**RECOMMENDATIONS OF THE  
FEDERAL ADVISORY COMMITTEE ON JUVENILE JUSTICE**

**ADOPTED OCTOBER 21, 2014**

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**Background:** In preparation for the 2014 recommendations, the FACJJ felt it was important to solicit input from State Advisory Groups, key state juvenile justice staff, and a variety of stakeholder/advocacy groups, and to conduct a scan of existing recommendations from those groups and others related to how OJJDP could best provide leadership and support for juvenile justice system improvements. As a result, three initial issue areas were identified and workgroups of FACJJ members were formed to review the input and develop recommendations for full FACJJ consideration. The information below represents the issue area, some contextual questions to help stimulate discussion (not necessarily the only things discussed by the workgroups), and the actual recommendations approved by the FACJJ.

**ISSUE AREA 1: FUNDING**

**Context and Examples of Questions for Discussion:** It is no surprise that the steady decline in funding for OJJDP and states dedicated to juvenile justice research and reforms has hampered the ability to meet the needs of both OJJDP and State Advisory Groups (SAG). Despite these reductions, states have made creative use of increasingly limited funds to increase the capacity of juvenile justice professionals in their state to implement practice changes that build upon solid research about what is most effective at preventing and responding to youth delinquent behaviors. At the same time, OJJDP has sharpened its leadership and research agenda to focus on underlying issues that impact youth development, and to develop a framework and tools to help guide practitioners on how best to achieve good outcomes for youth and their communities. However, progress is jeopardized by diminishing funds and further complicated by: (1) demands on funding related to ensuring that core requirements of the Juvenile Justice and Delinquency Prevention Act are met; and (2) earmarks on funding that limit both the amount and flexibility of funds available to states to address needs unique to their state.

**Recommendations:**

**1) Funding for OJJDP should be balanced to reflect the charge of the office.**

*[Note that this particular recommendation is directed toward Congress and the President and reflects FACJJ support for the charge to and responsibilities of OJJDP as outlined in the Juvenile Justice and Delinquency Prevention Act (JJDP A). Further, the FACJJ asserts that funding levels to adequately support the work of OJJDP and the states as prescribed in the JJDP A need to be increased.]*

- a. To assist in that process, the FACJJ recommends that OJJDP staff create a clear picture of the reality of present and historical funding allocations and restrictions as it relates to the duties assigned to the office.

**2) OJJDP funding to states, territories, tribal entities, and the District of Columbia should be *adequate and flexible* enough for those jurisdictions funded to achieve the mandates and priorities associated with the funding (given the unique conditions of each location).**

- 3) OJJDP should invest in the creation and use of National Outcome Measures related to the ideas of “rare, fair, and beneficial.” Specifically, OJJDP should:**
- a. Choose a limited number of measures that would help the office and the field make comparisons over time and across jurisdictions that are related to how rare, how fair, and how beneficial contact with the JJ system is. (These decisions should take into account input from researchers as well as ideas included in the 2013 FACJJ Recommendations).
  - b. Provide training and technical assistance to ensure that data collection and analysis for these measures are consistent and that good comparisons are possible.
  - c. Phase in a requirement that grantees report using these measures in order to be eligible for funding.
  - d. Use these measures to help determine the effectiveness of its efforts to assist states, territories, tribal entities, and the District of Columbia, and which state, territory, tribal entity, and District of Columbia efforts to highlight as “what works.”
- 4) OJJDP should help the President, Congress, and the field better understand and prepare for the potential withdrawal of private funding supporting the work of the office.**
- a. OJJDP should create and widely disseminate information (including an infographic) that accurately “paints the picture” of the current and historical support provided by the private sector that has been related to the mission of OJJDP. This should include a calculation of funding needed to sustain gains made through private funding.
- 5) OJJDP should integrate the collection and use of cost-benefit data into its operations. Specifically, OJJDP should:**
- a. Increase ease of access to completed, relevant cost-benefit analyses.
  - b. Include cost-benefit analysis (data collection and analysis) in future research and demonstration projects.
  - c. Provide training and technical assistance to develop capacity of states, territories, tribal entities, and the District of Columbia to collect and analyze cost-benefit data for their initiatives.
- 6) OJJDP should invest in the development of a strategy to effectively communicate the purpose and need for a separate JJ system, the role of OJJDP and the SAGs, and issues related to reform of the system. Specifically, OJJDP should:**
- a. Take the lead on development of core messages which reinforce the strengths and benefits of a juvenile justice system that is consistent with the developmental needs of youthful offenders.
  - b. Create tools to assist states, territories, tribal entities, and the District of Columbia in delivery of the messages.
  - c. Provide technical assistance to states, territories, tribal entities, and the District of Columbia needing additional help to increase public understanding of the purpose and need for a separate system for juveniles, or issues related to reform (especially as relates to using a developmental approach).

## ISSUE AREA 2: STRENGTHENING THE FEDERAL-STATE PARTNERSHIP

**Context and Examples of Questions for Discussion:** The OJJDP/State partnership is unique, both groups benefiting from what they do best. In particular, since almost all juvenile delinquency prevention and intervention services are delivered at the state/local level, states are by their nature the “laboratories” of system reform and practice implementation. OJJDP by virtue of its position plays a critically important role in establishing a strong vision for a juvenile justice system that well-serves youth and communities. OJJDP strengthens the ability of states to be successful on issues of importance to them by providing research, training, technical assistance, and state support; by disseminating information; and being a role model for cross-agency collaboration.

The significant efforts of OJJDP staff, transitions of multiple Interim Administrators, a delay in appointing a permanent Administrator, reorganization of the office, staffing/funding challenges, changes in the structure of FACJJ, and a sense of inconsistent proactive communications with states, all elevate the importance of strengthening the critical federal-state relationship and partnership.

### **Recommendations:**

(Note: For the following recommendations related to federal-state partnerships, the term **jurisdictions** collectively refers to states, territories, tribal entities, and the District of Columbia.)

- 1) **OJJDP should support continued efforts to coordinate available training and technical assistance and opportunities with juvenile justice specialists and SAG members for jurisdictions.**
- 2) **OJJDP should support research and “research to practice” strategies that have been especially important to states, and/or have not been yet addressed, that may help jurisdictions be more successful. Specifically, OJJDP should:**
  - a. Continue to support research consistent with the National Academy of Sciences (NAS) report, “Implementing Juvenile Justice Reform: The Federal Role,” emphasizing developmentally appropriate research.
  - b. Support research on effective strategies for system reform that improve outcomes for youth, families, and victims of juvenile crime.
  - c. Continue research on the welfare of over-represented, under-served, and unique populations (e.g., girls, LGBT, immigrant children, problem sexual behavior).
- 3) **Increase OJJDP capacity to proactively improve and sustain an effective federal and state collaboration that promotes system reforms which are consistent with the recommendation of the NAS report, “Implementing Juvenile Justice Reform: The Federal Role .”**

### **ISSUE AREA 3: COMPLIANCE MONITORING, REGULATION, AND COMMUNICATIONS**

**CONTEXT:** One of the complications of funding reductions has been what many states believe are increasingly inflexible regulations and requirements related to monitoring compliance with the core requirements. While states largely if not universally support the core requirements, the extent to which OJJDP has proactively engaged with states on interpreting requirements, promulgating regulations and guidance, and providing guidance in monitoring compliance has not been as universally viewed as supportive, collaborative, or helpful.

At times states have experienced lengthy delays in receiving responses to questions related to the interpretation and practical application of statutory language and/or guidance promulgated by OJJDP. In other cases, states have received inconsistent guidance or guidance that poses significant practice challenges without the opportunity to offer input into that discussion. Whether real or perceived, regulations and guidance that place diverse states within rigid one-size-fits-all boundaries and expectations may not, in the long run, be the best use of scarce federal, state, or local resources. It is therefore in the best interests of both states and OJJDP to find ways to implement the core requirements and their monitoring in ways that ensure the rights and protections of the JJDPA are provided for youth in a cost-effective manner.

#### **Recommendations:**

- 1) **The Administrator should use the FACJJ as a conduit to gauge reaction from the states, territories, tribal entities, and the District of Columbia to proposed changes in regulation or guidance.**
- 2) **OJJDP should develop a quality assurance system to evaluate the delivery of technical assistance related to compliance. This should include measures for timeliness and consistency of responses nationwide.**
- 3) **OJJDP should solicit input from the state advisory groups on the method of calculating compliance with the Disproportionate Minority Contact (DMC) requirements. This can be through a FACJJ solicitation for information on how states utilize and perceive the Relative Risk Index (RRI).**
- 4) **In particular, OJJDP should consider modifying its approach to evaluating DMC conformance by adding two measures to the current RRI measurement. This recommendation is outlined in Appendix A.**

## APPENDIX A

### A PROPOSAL RELATED TO HOW OJJDP MEASURES DMC

#### **QUESTION:**

Does OJJDP's approach to evaluating DMC conformance fully adhere to the JJDP Act's statutory language and does it have the potential to give a false impression of a state's progress in reducing minority contact<sup>1</sup>?

#### **BACKGROUND:**

Following is the statutory language for the DMC core requirement under the JJDP Act of 2002, Section 223 (a) (22):

*... address juvenile delinquency prevention efforts and system improvement efforts designed to reduce ... the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system.*

The two key words in this language are disproportionate and number. Therefore, measuring conformance to the mandate requires two metrics – one relative and one absolute.

Relative measure: Reduce the percentage of minorities who come into contact with the juvenile justice system, compared to the number of non-minorities. This is the basis of the Relative Risk Index (RRI) and has been the primary emphasis for OJJDP compliance.<sup>2</sup>

Absolute measure: Reduce the number of minorities who come into contact with the juvenile justice system: This measure not been formally implemented.<sup>3</sup>

#### **ISSUE:**

Focusing exclusively on the relative measure, without accounting for the absolute measure, can be misleading and mask what is really happening in a state.

**Example 1:** It is possible for a state to implement policies that reduce disproportionality while increasing minority contact with the system:

*How: There is an increase in the both the rate of minority and non-minority contact, but the increase is greater for the non-minority group. On the surface, this reduces disproportionality, but few would argue that such policies benefit either group.*

**Example 2:** It is possible for a state to implement policies that increase disproportionality while reducing minority contact with the system:

*How: There is a reduction in both the rate of minorities and non-minorities entering the system, but the reductions are greater for the non-minority group. On the surface, this increases disproportionality, but few would argue that such policies do not benefit each group.<sup>4</sup>*

## APPENDIX A (cont.)

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<sup>1</sup> State is used here, but the proposal could apply to any jurisdiction.

<sup>2</sup> This measure deals directly with the issue of disproportionality based on relative rates.

<sup>3</sup> This measure assumes, as does the statutory language, that disproportionality exists; consequently, efforts are required to reduce the number of minority contacts. This charge may be viewed as separate, but complimentary, to the issue of relative rates.

<sup>4</sup> This may mimic the situation today in many states and nationwide. The August 2014 Bulletin from the Department of Justice, Juveniles in Residential Placement 2011, shows the number of placements for the non-minority (white) population dropped 52% from 2001 to 2011, compared to a drop of 34% for the minority population. Just focusing on the relative rates would indicate a huge increase in disproportionately, but would mask the good news that both minority and non-minority placement have dropped dramatically.

**PROPOSAL:**

OJJDP should continue emphasizing the relative measure (RRI), but supplement it with two additional absolute measures: the number of minority contacts with the system and the number of non-minority contacts with the system. All three measures would be reported together, showing changes over time as defined by OJJDP.

This combination of metrics would give a fuller picture of how policies are impacting minorities, both in terms of percentages and absolute numbers. The overall goal would be to achieve positive changes in all three measures (when minority contact is dropping faster than non-minority contact).

See the chart below for simplified scenarios suggesting how these added measures could give a clearer picture of progress, or lack thereof.

NOTE: In no way is this proposal intended to deemphasize OJJDP’s focus on disproportionality as measured by the RRI. Rather, it is meant to supplement and enrich this approach.

**SIMPLIFIED SCENARIOS**

<i>Scenarios</i>	<i>Minority Contacts</i>	<i>Non-Minority Contacts</i>	<i>RRI</i>	<i>Discussion</i>
1	Equal increase	Equal increase	No Change	RRI the same, but more contact for both groups – <b>bad result</b>
2	Greater increase	Lesser increase	Up	RRI up, more contact for both groups— <b>worst result</b>
3	Lesser increase	Greater increase	Down	RRI down, more contact for both groups, <b>mixed but mostly bad result</b>
4	Increase	Decrease	Up	RRI up, minority contact up, but non-minority contact down— <b>mixed but mostly bad result.</b>
5	Decrease	Increase	Down	RRI down, minority contact down, but non-minority contact up— <b>mixed result</b>
6	No change	No change	No Change	<b>Status Quo</b>
7	Equal Decrease	Equal Decrease	No Change	RRI the same, but less contact for both groups— <b>good result</b>
8	Greater decrease	Lesser decrease	Down	RRI down, contact down for both groups— <b>best result.</b>
9	Lesser decrease	Greater decrease	Up	RRI up, but contact down for both groups, <b>fairly good result.</b>
10	Decrease	No change	Down	RRI down, minority contact down, but non-minority contact no change— <b>very good result</b>