



# National Juvenile Justice Network



January 15, 2010

Jeff Slowikowski  
Acting Administrator  
Office of Juvenile Justice and Delinquency Prevention  
U.S. Department of Justice, Office of Justice Programs  
810 Seventh Street, NW  
Washington, D.C. 20531

Dear Acting Administrator Slowikowski:

This letter is in response to the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Proposed Plan for Fiscal Year (FY) 2010, which describes OJJDP's proposed discretionary program activities for FY 2010. We commend OJJDP for publishing and seeking comments on the plan, and look forward to working collaboratively with OJJDP to establish and implement programs that benefit youth in conflict with the law, the communities in which they live, and the country at large.

NJJN is pleased to see that OJJDP's proposed plan addresses many of the issues plaguing juvenile justice systems across the country. Nevertheless, OJJDP's pursuit of its myriad program areas fails to -- and misses an important opportunity to -- posit OJJDP as a leader for the key reforms that research, science and practice have shown to be crucial for the health and safety of youth and communities. NJJN recommends that OJJDP reorient its priorities so that they accord with our growing body of knowledge on what works to prevent and respond to delinquency.

In specific, NJJN recommends that OJJDP reframe its approach to juvenile justice and delinquency prevention to incorporate the following principles as the foundation for future programming:

1. Keep Youth out of the Adult System;
2. Decrease the Use of Institutional Placements for Youth;
3. Reduce Disproportionate Minority Contact;
4. Infuse Youth Development Principles throughout Juvenile Justice Systems;
5. Involve Families in Juvenile Justice Systems Operations;
6. Treat Youth Sex Offenders in a Developmentally Appropriate Manner; and
7. Encourage Participation in the International Juvenile Justice Community.

The National Juvenile Justice Network (NJJN) is a membership group of state-based juvenile justice reform organizations that enhances the capacity of its members and the larger reform community to advocate for state and federal laws, policies and practices that are fair, equitable and developmentally appropriate for all children, youth and families involved in, or at risk of becoming involved in, the justice system. By collaborating with state, local and national advocates for children and by creating a Network that is itself

effective and respected, NJJN works to ensure that every state's juvenile justice system develops model laws, policies and programs. NJJN currently comprises 40 members in thirty-three states<sup>1</sup>.

### **Keep Youth out of the Adult System**

A growing body of research conducted over the past decades clearly shows that there is no public safety benefit to trying youth in adult court. OJJDP's 2008 report, "*Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*" concludes that prosecuting youth in adult court is dangerous to both youth and the community. "The practice of transferring juveniles for trial and sentencing in adult criminal court has, however, had the unintended consequence of *increasing recidivism, particularly in violent offenders*, and thereby of promoting life-course criminality."<sup>2</sup> Additional reports released by the Brookings Institution, the U.S. Centers for Disease Control and Prevention and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) conclude that youth prosecuted in or transferred to the adult criminal justice system are much more likely to re-offend when compared to youth who committed similar crimes, but were retained in the juvenile justice system. Moreover, youth who are transferred into adult court are more likely to be sexually assaulted and to commit suicide than youth who are retained in the juvenile system.<sup>3</sup>

Given this research, it is unconscionable that more than 200,000 youth are prosecuted in adult court each year, the majority of whom are non-violent offenders. NJJN strongly encourages OJJDP to take a leadership role and use its own research to help states eradicate the transfer of youth into the adult court, and encourage all states to comply with the internationally recognized age of 18 as the jurisdictional cutoff for juvenile court.

### **Decrease Use of Institutional Placements for Youth**

NJJN encourages OJJDP to broadly examine the dangers of institutional placements for youth and communities and to utilize this research in a call to increase the use of community-based supervision for youth. Two separate decades-long research studies that have just been released clearly indicate that institutional placements for youth offenders serve no public safety interest. Research conducted as part of the John D. and Catherine T. MacArthur Foundation Pathways to Desistance study has demonstrated that recidivism rates for youth in institutional care are equal to those of youth who are under supervision in the community<sup>4</sup>. In a study of felony youth offenders in Canada, youth placed in institutions, when compared to similar felony-level youth who had been supervised in the community, were far more likely to become adult offenders.<sup>5</sup> OJJDP should help states find pathways to community-based supervision given the lack of public safety benefit of institutional care and the enormous expense to states of placing youth in institutions.

Not only are youth more likely to re-offend, if they are placed in institutional care, but they are also more likely to be physically and emotionally harmed. The just-released report from the Bureau of Justice Statistics shows that more than 12% of youth nationwide in juvenile facilities are victims of sexual abuse, predominately at the hands of staff.<sup>6</sup> Given that OJJDP's Proposed Plan includes the goal of preventing

1 The National Juvenile Justice Network's 33 state members are in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, Wisconsin and Wyoming.

2 Redding, R. (2008) "*Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*" Washington, D.C.: OJJDP, p. 8, emphasis added.

3 Campaign for Youth Justice, "Jailing Juveniles" 2007.

4 Research on Pathways to Desistance, "Research Update," Models for Change, MacArthur Foundation, 2009.

5 Gatti, Umberto; Tremblay, Richard; and Vitaro, Richard, "Iatrogenic Effect of Juvenile Justice," *Journal of Child Psychology and Psychiatry*, 50:8, 2009.

6 Beck, Allen; Guerino, Paul; and Harrison, Paige, "Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09," Bureau of Justice Statistics, 2010.

youth from becoming victims of violence, NJJN encourages OJJDP to advocate for the decreased use of institutional care to further this policy end.

Finally, there are proven, field-tested methodologies from which OJJDP can draw to reduce institutional placements of youth. The Annie E. Casey Foundation's Juvenile Detention Alternative Initiative has decreased the unnecessary use of detention across the country through the use of tested risk-assessment instruments. In 2009, the 78 sites using JDAI saw an average of a 35% decrease in their detention populations; and 24 of those sites saw a decrease of more than half of their detention populations.<sup>7</sup> Fiscal realignment programs have also proven to reduce the ineffective and expensive reliance on incarceration. Reclaim Ohio, Wisconsin Youth Aids, and Redeploy Illinois have all developed programs that have effectively provided incentives for local jurisdictions to maintain youth in their communities rather than send them to state-funded facilities.

In many states, nearly half of the youth in confinement are there on parole violations. For this reason, NJJN applauds the support within the program plan for additional demonstration programs under the Second Chance Reentry Program.

### **Reduce Disproportionate Minority Contact (DMC)**

Although the Proposed Plan includes language on DMC, the Plan provides little detail as to how OJJDP will assist states in eliminating disproportionate minority contact in their jurisdictions. Eradicating DMC is essential to the development and maintenance of sound, responsible and effective juvenile justice systems. NJJN recommends that OJJDP set DMC reduction as an overarching goal that infuses an analysis of and response to DMC into all program areas. OJJDP can seize this opportunity to establish DMC eradication as a national juvenile justice priority and to provide much-needed technical assistance to states and localities in the areas of data collection and the identification and analysis of patterns that lead to DMC. NJJN recommends that OJJDP incorporate an urgent and systemic focus to the elimination of DMC going forward.

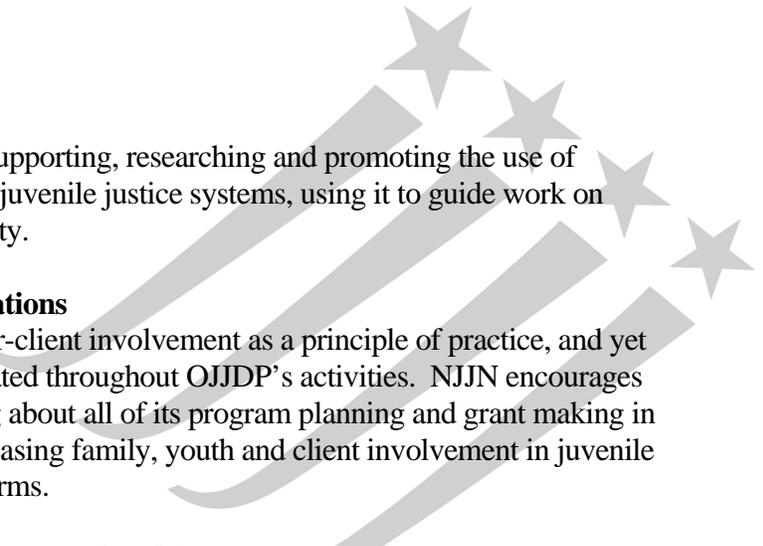
One key to reducing disproportionate minority contact is ensuring youth in conflict with the law have vigorous and effective representation. For this reason, we heartily encourage the program plan's proposals to improve indigent juvenile defense services across the nation.

### **Infuse Youth Development Principles throughout Juvenile Justice Systems**

Over the last 100 plus years since the genesis of the juvenile court, this country has learned much about how best to respond to juvenile delinquency. Research has shown that juvenile offending can be a normative process of adolescent growth and development<sup>8</sup> and that the overwhelming majority of youth offending behavior will stop once youth have matured. New brain research findings provide further support to these statements and confirm what parents know intuitively, that adolescents are in a unique phase of life and must be held accountable for their actions differently from either children or adults. Incorporating Positive Youth Development principles into our response to adolescent offending provides the most effective way to hold youth accountable, protect public safety and ensure that youth develop and grow into productive citizens. Positive Youth Development teaches a young person how to take responsibility for their actions while tapping into their natural strengths in key life domains such as employment and education.

<sup>7</sup> Mendel, Richard, "Two Decades of JDAI: From Demonstration Project to National Standard," The Annie E. Casey Foundation, 2009.

<sup>8</sup> Jeffrey Butts, Susan Mayer and Gretchen Ruth, "Focusing Juvenile Justice on Positive Youth Development," Chapin Hall Center for Children at University of Chicago No. 105 (October 2005): 2.



NJJN encourages OJJDP to take a leadership role in supporting, researching and promoting the use of Positive Youth Development as the cornerstone of all juvenile justice systems, using it to guide work on prevention, rehabilitation, and reentry to the community.

### **Involve Families in Juvenile Justice Systems Operations**

OJJDP's Proposed Plan includes family and consumer-client involvement as a principle of practice, and yet does not delineate how this principle will be incorporated throughout OJJDP's activities. NJJN encourages OJJDP to infuse family collaboration into the thinking about all of its program planning and grant making in order achieve the important goal of ensuring and increasing family, youth and client involvement in juvenile justice and delinquency prevention programs and reforms.

### **Treat Youth Sex Offenders in a Developmentally Appropriate Manner**

OJJDP's "Young Sexual Offenders Program" as described in the program plan lacks sufficient information for members of the public to provide substantive commentary. Nevertheless, NJJN would like to take this opportunity to remind OJJDP of the body of evidence for how best to respond to youth who have committed sex offenses. This evidence reveals that placing youth on public sex offender registries and subjecting them to community notification requirements will not protect public safety and will only serve to needlessly harm young people. The recidivism rate of youth who commit sex offenses is between 5-14%<sup>9</sup>; thus, more than nine out of ten times the arrest of a juvenile for a sex offense is a one-time event.<sup>10</sup> Furthermore, clogging up public registries with individuals who are extremely unlikely to re-offend will only serve to hinder time-sensitive police investigations.

For youth sex offenders, placement on public sex offender registries will only succeed in creating a new targets for pedophiles, will establish life-long obstacles for these youth in housing, school and employment, and will very likely prevent them from ever developing into productive citizens. OJJDP states that it will collaborate with the SMART Office in their response to juvenile sex offenders; NJJN encourages OJJDP to work with the SMART Office to reassure those states that wish to remove youth from public registries that they will be in substantial compliance with the Adam Walsh Act.

### **Encourage Participation in the International Juvenile Justice Community**

Many of the Program Plan's proposals are consistent with international law and standards, and concern issues of current debate around the world. It would be mutually beneficial to encourage awareness of international law, standards and trends, and to encourage participation with the international community on the most effective approaches to reduce youth crime and to successfully rehabilitate youths in conflict with the law.

### **Conclusion**

NJJN applauds OJJDP for seeking public comment on its proposed plan. NJJN would be happy to work with OJJDP in the coming years to ensure that OJJDP's approaches to youth in conflict with the law accord with the latest research and our growing body of knowledge about what works.

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9 National Center on Sexual Behavior of Youth (NCSBY)

10 Zimring, F.E. (2004). *An American Tragedy*. University of Chicago Press, p. 8.

OJJDP is uniquely positioned to serve as our Country's leader in setting the standards and the pace for the development of responses to youth crime that both protect public safety and ensure that all of our young citizens are given the tools they need to grow into responsible and effective adults.

If you have any questions about our comments, please do not hesitate to contact us at Sarah Bryer ([bryer@juvjustice.org](mailto:bryer@juvjustice.org)), Abby Anderson ([abby@ctjja.org](mailto:abby@ctjja.org)), and Betsy Clarke ([bcjuv@aol.com](mailto:bcjuv@aol.com)).

Thank you for your time and consideration in reviewing our comments.

Sincerely,



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Sarah Bryer  
Director, NJJN



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Abby Anderson  
Co-Chair, NJJN



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Betsy Clarke  
Co-Chair, NJJN