



**POSITION STATEMENT  
IMPACT OF THE PRESIDENT'S PROPOSED FY12 BUDGET  
ON FEDERAL JUVENILE JUSTICE PROGRAMS**

**EXECUTIVE SUMMARY:**

The President's FY12 budget would significantly restructure federal juvenile justice funding to the states and territories and undermines the historic purpose and intent of the Juvenile Justice and Delinquency Prevent Act of 1974. The proposal:

- Abandons the three decade long federal support for the minimum federal protections for children in the juvenile justice system;
- Severely limits states' access to federal resources that help them meet the minimum federal protections for children in the justice system by shifting 100% of the costs for the compliance, monitoring, implementation, and oversight of the federal JJDPA law to the states;
- Reduces the critical role of the federal government in serving as a catalyst for juvenile justice reforms in states by eliminating the access of most states to federal resources that can be used for state and local juvenile justice system reforms beyond the minimum federal protections;
- Diminishes federal leadership in juvenile justice by eliminating its crucial role in ensuring minimum federal protections for children in juvenile justice systems throughout the country;
- Runs counter to the Juvenile Justice & Delinquency Prevention Act (JJJPA) reauthorization legislation (S. 678, S. 3155) introduced and passed on a bipartisan basis by the U. S. Senate Judiciary Committee in the 110th and 111th Congresses and endorsed by the Administration; and
- Is not consistent with other Administration "Race to the Top" initiatives.

**Recommendations:**

The Administration should restructure the "Race to the Top-style" Juvenile Justice Improvement Grant in the President's FY12 budget by:

- (1) Allocating 90-95% (\$108-114 million) of the funds on a formula basis to all of the states in partial or total compliance with the minimum federal protections;

- (2) Allocating the remaining 5-10% (\$6-12 million) of the funds on a competitive basis for a select number of states to improve outcomes for vulnerable children;
- (3) Restoring the \$10 million reduction in these programs;
- (4) Supporting the Senate JJDP bill to substantially strengthen the minimum federal protections for children; and
- (5) Initiating administrative actions to accelerate the implementation of efforts to strengthen minimum federal protections for children.

## **BACKGROUND:**

For more than three decades, the Juvenile Justice & Delinquency Prevention Act (JJDP), has provided national leadership and support for juvenile justice system improvements and has contributed significantly to the reduction of juvenile crime and delinquency.

The JJDP establishes minimum federal protections for the custody and care of children in the juvenile justice system and provides formula funding to all 56 states and territories to:

- Protect children from the dangers of adult jails and lockups;
- Keep status offenders out of locked custody;
- Increase fairness by requiring states to take steps to reduce racial and ethnic disparities.

In the 110<sup>th</sup> and 111<sup>th</sup> Congresses, the U.S. Senate Judiciary Committee approved a JJDP Reauthorization bill on a bipartisan basis to strengthen the minimum federal protections for children to protect children from the dangers of adult jails and lock ups, reduce the number of youth securely detained as a the result of a status offense, and provided concrete guidance on how to reduce racial and ethnic disparities. Additionally, the bill seeks to improve conditions of confinement in juvenile facilities, to increase all states' ability to comply with the minimum federal protections, to restore and strengthen the federal role through the Office of Juvenile Justice & Delinquency Prevention (OJJDP), and to set more appropriate authorization levels for Title II formula funds to all states.

In an April 15, 2010 letter to U.S. Senate Judiciary Committee Chairman Patrick Leahy, Assistant Attorney General Ron Weich underscored the Administration's strong support for the JJDP stating that, "Supporting and improving the juvenile justice system and preventing youth violence and delinquency are among the Attorney General's top priorities."

The President's proposed FY 12 budget would significantly restructure juvenile justice funding to states and territories and lead to major revisions to the JJDP that are inconsistent with the Administration's position on the law. The President's FY 12 budget would combine Title II formula grant funding from the Juvenile Justice & Delinquency Prevention Act (JJDP) and the funding from the Juvenile Accountability Block Grant (JABG) into a "Race to the Top"-style Juvenile Justice Improvement Grant for a total of \$120 million.

DOJ's budget documents state that, "The goal of the new program is to create a competitive program that rewards or incentivizes states for progress against key progress indicators for the juvenile justice system, including engagement in community-based juvenile strategic planning, implementation of evidence-based strategies and practices, employment of diversion strategies, and reduction of disproportionate minority contact."

## IMPACT:

The President's FY 12 budget for juvenile justice funding is harmful for children and youth because it:

- (1) Abandons the three decade long federal support for the minimum federal protections for children in the juvenile justice system. It does so by zeroing out the Title II formula funds to all states and transferring those resources to a competitive grant program with funding provided for a small number of eligible states. This will greatly reduce the incentive for many states to remain in compliance with the minimum federal protections and abandon their long-standing partnership with the U.S. Department of Justice.

For example, the "Jail Removal" minimum protection requires that states not place children in adult jails or lockups.

In federal law since 1980, the "Jail Removal" minimum federal protection is based on the research that shows:

Children placed in adult jails with adults are at risk of physical and sexual assault.

Separating children from adults in adult jails helps reduce some of the physical or emotional harm to children, but children are then often placed in isolation which can also produce harmful consequences. Youth are frequently locked down 23 hours a day in small cells with no natural light. These conditions can cause anxiety, paranoia, and exacerbate existing mental disorders and put youth at risk of suicide.

Children have the highest suicide rates of all inmates in jails. Youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility, and 20 times more likely to commit suicide in an adult jail than youth in the general population.

Organizations such as the American Jail Association, the American Correctional Association, the National Association of Counties, the Council of Juvenile Correctional Administrators and the Coalition for Juvenile Justice have national policy positions supporting the removal of children from adult jails and lockups.

Defunding Title II by abandoning the guaranteed connection between compliance and federal support for this type of protection increases the probability of shifting the entire cost of complying with the federal minimum protections to the states. The result would be a substantial increase in the numbers of children subject to placement in adult jails and lockups.

The President's proposal undermines the intent in current federal law to provide minimum protections for children in all states and territories.

- (2) Severely limits states' access to federal resources that help them meet minimum federal protections for children in the justice system for more than 3 decades by shifting 100% of the costs for the compliance, monitoring, oversight and implementation of the federal JJDP law to the states.

For example, under the JJDP law, all states are required to meet the "Disproportionate Minority Contact" (DMC) provision, one of the four minimum federal protections, of the JJDP law. To undertake DMC reduction efforts, states can utilize a portion of their JJDP law Title II formula funds.

Stressing the importance of the DMC core requirement, Attorney General Holder made the following public statement to the National Association of Counties National Conference on March 7, 2011:

*“The evidence in our nation’s juvenile justice system is in – and it demonstrates that change is needed. The current system does not spend resources as wisely as it should. And it does not improve as many lives as it should. Why is it that, although African American youth make up 16% of the overall youth population, they make up more than half of the juvenile population arrested for committing a violent crime?”*

Undertaking DMC reduction efforts is crucial because research consistently indicates that racial and ethnic disparities continue to exist within the juvenile justice system: youth of color are treated more harshly than white youth, even when charged with the same category of offense. Moreover, youth of color are overrepresented at each point of contact within the juvenile justice system, and often the disparity is cumulative as youth proceed through the decision system from arrest to secure placement to transfer to adult court.

For decades, States have struggled with the seeming intractability of racial and ethnic disparities in the juvenile justice system. However, with federal funding support, jurisdictions across the country have demonstrated that measurable reductions in disparities are possible. For example, Peoria County, Illinois used Title II funds to reduce disparities. Peoria examined data from school referrals to the police and determined that the county’s racial disparities were aggravated by school discipline policies that had a disparate impact on youth of color. The County successfully reduced disproportionate referrals of youth of color to the juvenile justice system by working with the school system to strengthen school-based conflict resolution protocols.

The few but increasing number of jurisdictions that cite measurable reductions disparities reveal that informed, intentional and data driven strategies work.

Currently, most states use Title II formula funds to undertake DMC reduction efforts. Under the President’s proposal, all states and territories would lose funding and only a handful of states would receive grant funding under the new program to continue DMC reduction efforts.

Shifting all the costs to the states will force many states to discontinue their initiatives to reduce racial and ethnic disparities.

The 12 states currently out of compliance with the federal JJDPAs would not be eligible to compete for any funds under new grant program and therefore, could not utilize these funds to undertake DMC reduction efforts.

- (3) Reduces the critical role of the federal government in serving as a catalyst for juvenile justice reforms in states by eliminating the access of most states to federal resources that can be used for state and local juvenile justice system reforms beyond the minimum federal protections.**

A number of states utilize the JJDPAs Title II formula funds to reduce the inappropriate and unnecessary detention of youth in juvenile detention facilities. These funds have enabled states and localities to reduce costs, increase public safety outcomes, and improve positive outcomes for children.

Under the President's proposal, federal funds would not be available for states to undertake these successful and cost-effective approaches.

Attorney General Holder also spoke to the importance of investing in evidence-based, cost-effective strategies at the NACO conference:

*“Put simply, it’s time to broaden our approach to juvenile justice—and to ensure that sound research and respected analysis are a part of our decision-making process. We know that we must transition from a prosecution and punishment model to a prevention and intervention paradigm...Not only will updating our approach—and building on current efforts be smart, not just tough, on crime—help generate positive outcomes we seek for our young people, these reforms will also save money.”*

**(4) Diminishes federal leadership in juvenile justice by eliminating its crucial role in ensuring minimum federal protections for children in juvenile justice systems throughout the country.**

Established under the JJDPA in 1974, the Office of Juvenile Justice & Delinquency Prevention (OJJDP) is the agency charged with responsibility for juvenile justice at the U.S. Department of Justice. As the federal leadership agency and “home” for juvenile justice in the federal government, OJJDP is responsible for providing guidance, support and oversight to States and territories implementing the JJDPA.

Under the President's proposal, a major function of the federal Office of Juvenile Justice & Delinquency Prevention (OJJDP) would be reduced from ensuring minimum federal protections for all children in all 56 states and territories to dealing only with the small handful of states that received a competitive grant under this program.

**(5) Runs counter to the Juvenile Justice & Delinquency Prevention Act (JJDPA) reauthorization legislation (S. 678, S. 3155) introduced and passed on a bipartisan basis by the U. S. Senate Judiciary Committee in the 110<sup>th</sup> and 111<sup>th</sup> Congresses and endorsed by the Administration.**

In a statement on the S. 678, U.S. Senate Judiciary Committee Chairman Patrick Leahy states, “Our legislation is intended to keep children safe and out of trouble, and also to help ensure they have the opportunity to become productive adult members of society.” Senator Richard Durbin stated, “The Juvenile Justice Act provides critical resources to help states address juvenile delinquency. It expands on important community-based programs that help troubled youth get out of the criminal justice system and back on the right track.”

The JJDPA reauthorization bills, S. 678 and S. 3155, introduced and passed on a bipartisan basis by the U.S. Senate Judiciary Committee in the previous two congresses, substantially strengthen the four minimum federal protections for children in all states and territories. The President's budget not only does not strengthen these minimum federal protections for all children, it would essentially eliminate the ability of most states to meet the current minimum federal protections.

The JJDPA reauthorization bills devote 95% of the Title II funding to meet the minimum protections for children in the juvenile justice system in all states and territories and allocates 5% to an incentive grant program for states. By contrast, the President's proposal allocates 100% of the funding to an incentive grant program for a small number of states and provides no guaranteed funding to states and territories to make certain their systems protect children and comply with federal law.

(6) Is not consistent with other Administration “Race to the Top” initiatives.

Other “Race to the Top” initiatives being proposed by the Administration do not abandon established federal funding streams that are essential to the implementation of federal law.

For example, the Department of Education’s “Race to the Top” initiative allocates approximately 1% of the federal education funding to incentivize states and to go above and beyond minimum federal requirements. The remaining 99% of federal education monies continue to flow to the states to ensure that the goals of federal law continue to be met.

The President’s FY12 budget proposal on juvenile justice allocates 100% of the federal funding for states and territories to a competitive grant program, leaving states with access to no remaining federal juvenile justice monies to help them comply with federal law.

RECOMMENDATIONS:

In order to ensure that the President’s FY12 budget continues to support states and ensure minimum protections for children in the justice system, we propose the following:

- (1) Restructure the “Race to the Top-style Juvenile Justice Improvements Grant” to be consistent with current/recent JJDPAs reauthorization proposals by allocating 90-95% (\$108 – 114 million) of the funds of the Juvenile Justice Improvements Grant on a formula basis to all of the states in partial or total compliance with the minimum federal protections so the grant program:
  - Provides all states with access to federal resources to not only meet the current minimum federal protections but to meet the strengthening amendments in the Senate Judiciary Committee approved JJDPAs bill for children in the justice system;
  - Provides all states with access to federal resources for state and local juvenile justice system reforms;
  - Retains federal support for the planning, compliance, monitoring, implementation and oversight of the federal JJDPAs law in all states;
  - Builds on the Juvenile Justice & Delinquency Prevention Act (JJDPAs) reauthorization legislation (S. 678, S. 3155) introduced and passed on a bipartisan basis by the U. S. Senate Judiciary Committee in the 110th and 111th Congresses; and
  
- (2) Restructure the “Race to the Top-style Juvenile Justice Improvements Grant” by allocating the remaining 5-10% (\$6-12 million) of the funds on a competitive basis for a select number of states to improve outcomes for vulnerable children so that the grant program:
  - Offers incentives to states consistent with other Administration “Race to the Top” initiatives;
  - Retains federal financial incentives for states to improve positive outcomes for the nation’s most vulnerable children; and

- Supports the crucial need to dramatically increase the performance of state juvenile justice systems in order to improve positive outcomes for vulnerable children.
- (3) Restore the \$10 million cut in these programs;
  - (4) Support provisions included in the JJDP A reauthorization bill passed by the Senate Judiciary Committee last Congress to substantially strengthen the minimum federal protections for children; and
  - (5) Initiate administrative actions to accelerate the implementation of efforts to strengthen the minimum federal protections for children.

This document was prepared by the National Juvenile Justice and Delinquency Prevention Coalition, a group of more than 50 national organizations, including youth- and family- serving, social justice, law enforcement, corrections, and faith-based organizations, that work to ensure healthy families, build strong communities and improve public safety by promoting fair and effective policies, practices and programs for youth involved or at risk of becoming involved in the juvenile and criminal justice systems. The NJJDPC is chaired by Tara Andrews, Deputy Executive Director of the Coalition for Juvenile Justice ([andrews@juvjustice.org](mailto:andrews@juvjustice.org)), and Ashley Nellis, Research Analyst, The Sentencing Project ([anellis@sentencingproject.org](mailto:anellis@sentencingproject.org)).

#### ADDITIONAL RESOURCES:

National Juvenile Justice and Delinquency Prevention Coalition:  
Top Priorities for the Obama Administration

[http://www.campaignforyouthjustice.org/documents/NJJDPC\\_Opportunities%20for%20the%20Obama%20administration.pdf](http://www.campaignforyouthjustice.org/documents/NJJDPC_Opportunities%20for%20the%20Obama%20administration.pdf)

National Juvenile Justice and Delinquency Prevention Coalition:  
Top Priorities for the 112th Congress

[http://www.campaignforyouthjustice.org/documents/NJJDPC\\_Opportunities%20for%20Congress.pdf](http://www.campaignforyouthjustice.org/documents/NJJDPC_Opportunities%20for%20Congress.pdf)

Act 4 Juvenile Justice Campaign to reauthorize the JJDP A

[www.act4jj.org](http://www.act4jj.org)

Backgrounder & Recommendations of the Act 4 Juvenile Justice Campaign

[http://www.act4jj.org/media/factsheets/factsheet\\_56.pdf](http://www.act4jj.org/media/factsheets/factsheet_56.pdf)

U.S. Senate Judiciary Committee report on the JJDP A reauthorization bill

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_reports&docid=f:sr280.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:sr280.pdf)