



January 12, 2010

Jeff Slowikowski
Acting Administrator
Office of Juvenile Justice and Delinquency Prevention
810 Seventh St. NW
Washington DC 20531

Re: Comments to the Proposed OJJDP Program Plan

Dear Acting Administrator Slowikowski:

On behalf of the Campaign for Youth Justice (CFYJ), I am writing to submit comments to the Proposed OJJDP Program Plan (Proposed Plan) issued by your office on December 1, 2009. CFYJ is a national non-profit organization working to end the practice of prosecuting youth in adult court and to promote more effective approaches in the juvenile justice system as an effective alternative for these youth.

We first would like to thank you for the opportunity to comment on the Proposed Plan. The Proposed Plan provides an excellent overview of the programs under the jurisdiction of OJJDP and how the agency intends to focus each of these programs in 2010. We also appreciate OJJDP's willingness to consider comments from the juvenile justice field while shaping the plan and hope that we can continue to work together to address juvenile justice issues.

We would like to comment on three specific areas and the work that we recommend OJJDP conduct in each of these areas:

Data collection and research on youth under the age of 18 in the adult criminal justice system:

Unfortunately, the Proposed Plan does not address the issue of youth under the age of 18 who are prosecuted in the adult criminal justice system. Within the United States, each State and the District of Columbia have laws that allow children under the age of 18 to be prosecuted in the adult criminal justice system. These laws have led to an estimated approximately 200,000 youth being processed in adult criminal court each year and an estimated 10,000 youth under the age of 18 being incarcerated in adult facilities - 7,500 in adult jails and an additional 2,500 in adult prisons.

Youth in adult jails face extremely negative conditions that can cause long-lasting harm, as examined in CFYJ's report "Jailing Juveniles," which is available at <http://www.campaign4youthjustice.org/Downloads/NationalReportsArticles/CFYJ->

[Jailing Juveniles Report 2007-11-15.pdf](#). Youth in adult jails have the highest suicide rates of all inmates and are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility. In addition, the National Prison Rape Elimination Commission also recently found that “more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse” and recommended that youth be housed separately from adults. Finally, research has shown that prosecuting children in the adult criminal justice system does not ultimately increase public safety. Various reports, including reports from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Centers for Disease Control and Prevention (CDC), led by a non-federal Task Force on Community Preventive Services, have shown that prosecuting youth in the adult criminal justice system significantly increases crime.

Beyond increased recidivism rates, there is limited data collection and research on the effects of prosecuting youth in adult courts. For example, the federal Bureau of Prisons and many States do not track youth who are prosecuted in the adult criminal justice system for data purposes. Once these youth are placed in adult jails and corrections facilities, they are considered adults for data collection, making it difficult to compare outcomes for youth prosecuted as adults to individuals over the age of 18 who are in the criminal justice system.

Recommendation: CFYJ recommends that OJJDP include a section in its Final Plan on youth under the age of 18 prosecuted as adults. We also suggest that OJJDP prioritize conducting both research and data collection on this group of youth in 2010.

With regard to research, we suggest that OJJDP conduct a study comparing individuals convicted in the adult criminal justice system for a crime committed while under the age of 18 to individuals convicted in the adult criminal justice system for a crime committed while over the age of 18 by examining:

- The availability, quality, and utilization of age-appropriate services, such as educational, health and mental health, and substance abuse services, while the individual is placed in juvenile residential facilities or adult jails and prisons, and during probation;
- The availability, quality, and utilization of discharge and re-entry planning; and
- The collateral consequences of an adult conviction, such as barriers to federal programs, employment, education, and military service.

With regard to data collection, we recommend that OJJDP conduct additional data collection at both the State and federal level on youth prosecuted in the criminal justice system, in the aggregate and disaggregated by offense, race, ethnicity, sex, disability, geography, English proficiency, delinquency history, age, and whether the case was brought in juvenile or adult court, such as:

- The number of youth arrested for adult offenses;
- The prior record of youth arrested for adult offenses;
- The number and basis for declination of prosecution for youth who were ultimately not prosecuted as adults;

- The number and disposition of cases terminated, including dismissals, guilty pleas, and results at trial;
- The number of youth who were referred back to the juvenile justice system
- The type and form of pretrial detention release;
- The sentences imposed on youth, including type and length of sentences and method of disposition;
- The appeals filed and terminated, and the disposition of appeals;
- The factors used to determine whether to charge a youth under the age of 18 in adult criminal court, including criteria used, who and what evidence is used to make the decision, and who ultimately makes the decision; and
- The final outcomes with youth under the age of 18 charged in adult criminal court, including recidivism rates, where they are housed, and the other programs available to youth in the adult court system, including how these outcomes compare to youth who are retained in the juvenile justice system.

Preparation for JJDP A Passage

For the past 35 years, OJJDP has continued to utilize the JJDP A to provide protections to youth in the juvenile justice system by conducting compliance monitoring and providing training and technical assistance to the States. The JJDP A is currently three years overdue for reauthorization and CFYJ - along with other advocacy organizations - is working with Congress to move legislation to reauthorize the JJDP A in 2010.

CFYJ is hopeful that JJDP A reauthorization legislation will include updates to the Act's four core requirements - disproportionate minority contact, deinstitutionalization of status offenders, jail removal and sight and sound separation - and language addressing conditions of confinement of youth in juvenile justice facilities. With regard to jail removal and sight and sound separation core requirements, CFYJ is working to ensure that these protections apply to all youth under the age of 18, regardless of the court in which they are charged.

Recommendation: CFYJ recommends that OJJDP begin creating a plan to implement the potential JJDP A reauthorization legislation, such as holding regional conferences to educate stakeholders on the changes to the law and a plan for writing regulations to implement the legislation and provide technical assistance to the States. CFYJ also recommends that OJJDP create funding opportunities for demonstration grants to promote successes in States that are currently going beyond the JJDP A core requirements.

Disproportionate Minority Contact:

CFYJ would like to thank OJJDP for including Disproportionate Minority Contact (DMC) as a priority in the Proposed Plan. Over the past two years, CFYJ has published reports on how youth of color - specifically Latino, African-American, and Native American youth - are disproportionately affected in the juvenile and criminal justice system; these reports are available on CFYJ's website at <http://www.campaignforyouthjustice.com/key-research/policy-briefs.html>.

These reports, along with other research, indicate that youth of color in the juvenile and criminal justice system are treated disproportionately harsh when compared to white youth. The reports also indicate that the disparities between white youth and youth of color increase the more involved the youth becomes in the juvenile justice and adult criminal justice system, such that the transfer of children to the adult criminal justice system is the most disparate piece of the juvenile/adult criminal justice continuum. Below please find specific statistics on the racial and ethnic disparities for youth prosecuted in the adult criminal justice system:

- Latino youth: Compared to white youth, Latino youth in juvenile court are 4% more likely to be petitioned, 16% more likely to be adjudicated delinquent, 28% more likely to be detained, and 41% more likely to receive an out-of-home placement. However, the most severe disparities occur for Latino youth tried in the adult system, where Latino children are 43% more likely than white youth to be waived to the adult system and 40% more likely to be admitted to adult prison.
- African-American youth: Disparities start at the beginning of a youth's involvement with the juvenile justice system, when a decision is made to arrest a child: African-American youth make up 30% of those arrested while they only represent 17% of the overall youth population. At the other extreme end of the system, African-American youth are 62% of the youth prosecuted in the adult criminal system and are nine times more likely than white youth to receive an adult prison sentence. These disparities exist despite the fact that, according to self-report surveys, African-American youth do not engage in more delinquent behavior overall than white youth.
- Native American youth: Native American youth are more likely to receive the most punitive sanctions, including out-of-home placements and transfer to the adult court system both of which are applied to Native American youth 1.5 times more than to White youth. Additionally, Native American youth are only 1% of the national population, but 70% of youth committed to the federal Bureau of Prisons (BOP) as delinquents are American Indian youth, as are 31% of youth committed to BOP as adults.

Fortunately, the juvenile justice field has made some strides in reducing DMC across the country. For example, the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI), which has been replicated successfully across the country, has shown encouraging data for reducing DMC in detention. A recent report on JDAI issued by the Casey Foundation found that "In 61 sites reporting, JDAI jurisdictions detained 873 fewer youth of color in 2007 than they did prior to beginning the detention reform process...[when] nationwide the number of youth of color in detention increased by more than 1,000 from 2001 to 2006."¹ Additionally, the W. Haywood Burns Institute has established sites across the country to address specific DMC issues through its Community Justice Network for Youth (CJNY). The CJNY is a

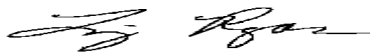
¹ Two Decades of JDAI From Demonstration Project to National Standard, The Annie E. Casey Foundation, pg. 22 (2009), available at http://www.aecf.org/MajorInitiatives/~media/Pubs/Initiatives/Juvenile%20Detention%20Alternatives%20Initiative/TwoDecadesofJDAIFromDemonstrationProjecttoNat/JDAI_National_final_10_07_09.pdf

network of over 130 organizations across the country dedicated to reducing disparities and establishing appropriate responses to youth in the juvenile justice system.

Recommendation: CFYJ recommends that OJJDP provide more clarity on achieving reductions in DMC with the juvenile and adult criminal justice system, particularly with regard to youth prosecuted as adults, including what specific tools and guidance OJJDP can give to States to reduce racial and ethnic disparities. In its work on reducing racial and ethnic disparities in the juvenile and criminal justice system, CFYJ also recommends that OJJDP provide funding streams to replicate initiatives that have been successful in reducing DMC across the country, specifically JDAI.

On behalf of CFYJ, thank you once again for the opportunity to comment on OJJDP's Proposed Plan. If you have any questions, please contact Liz Ryan through the information below. We look forward to working with you on these and other issues in 2010!

Sincerely,



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