



April 6, 2009

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The Honorable Eric H. Holder, Jr.
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810 Seventh Street, NW
Washington, DC 20531

Mr. Jeffrey Slowikowski, Acting Administrator
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street, NW
Washington, DC 20531

Dear Attorney General Holder, Ms. Robinson and Mr. Slowikowski:

As a follow-up to conversations held with Ms. Robinson and Mr. Slowikowski, and as leaders of the Coalition for Juvenile Justice (CJJ), we are pleased to offer the following recommendations to the U.S. Department of Justice as you continue and amplify your efforts to eliminate racial/ethnic disparities and reduce over-representation of youth of color in state and local juvenile justice systems, nationwide.

Youth of color are significantly overrepresented in juvenile confinement:

- Latino youth are incarcerated in local detention and state correctional facilities nearly two times more frequently than White youth.ⁱ
- African American youth represent 16% of the youth population nationwide,ⁱⁱ but 40% of youth incarcerated in local detention and state correctional facilities.ⁱⁱⁱ

Youth of color are disproportionately represented at all stages in the juvenile justice system:

- Youth of color are over-represented in arrest data for nearly all categories of offenses;^{iv} and African American and Native American youth are more likely than White youth to be referred to court, following arrest;^v
- African American youth are less likely than their White counterparts to receive probation as an alternative to detention/incarceration.^{vi}

Jurisdictions that employ data-driven strategies are achieving measurable reductions in racial and ethnic disparities and over-representation of youth of color in juvenile justice, especially when working in coordination with community leaders and juvenile justice stakeholders, for example:

- Peoria County, IL, has reduced disproportionate referrals of youth of color to the juvenile justice system by reducing school referrals to law enforcement and working with the school system to strengthen school-based conflict resolution protocols;^{vii}
- Travis County, TX, has reduced its disproportionate incarceration of youth of color who violate probation with a Sanction Supervision Program that offers intensive case management and probation services to youth and their families;^{viii}
- New Jersey, using the Juvenile Detention Alternatives Initiative (JDAI), has produced significant reductions in DMC. Disparities between youth of color held in detention versus those placed in alternatives, as compared with White youth similarly charged, dropped across five counties. The average length of stay (ALS) in detention for youth of color, also disproportionately high prior to JDAI, dropped from being 16 days longer to 5 days longer as compared with the ALS of White youth similarly charged.^{ix}

CJJ—our national association of JJDPAs State Advisory Groups and allies—has continually shined a spotlight on the need to resolve racial/ethnic disparities and over-representation of minority youth in juvenile justice. In 1988, CJJ’s annual advisory report to the President, the Congress and the Department of Justice, *A Delicate Balance*, elucidated the need for improvements in federal, state and local policy and practice to ensure equity and to eliminate persistent, differential and more severe treatment of minority youth in juvenile justice.

We are proud that CJJ informed and encouraged enactment of the DMC (disproportionate minority contact) core requirement in the JJDPAs, and have been earnest in our ongoing efforts to promote DMC research, best practices, leadership and resources. Yet, a notable lack of measurable progress in DMC reduction leads us to conclude that, together, all of us must be more strategic, efficient and effective to truly resolve DMC and racial/ethnic disparities in juvenile justice.

Given the pending congressional reauthorization of the JJDPAs, CJJ, along with our state-based members, and many state and national allies, has educated and opened dialogue about the need and opportunity to strengthen the DMC core requirement. In spring 2008, CJJ approved a formal position to strengthen the DMC core requirement—drawing on learning and advances in the field. CJJ’s DMC position (attached) is one of more than a dozen positions approved by member Chairs/Chair-designees of the State Advisory Groups (SAGs) as part of a comprehensive Platform on Reauthorization of the JJDPAs. We are very pleased to see these recommendations incorporated into Senate Bill 678 introduced on March 24, 2009, by Senate Judiciary Committee Chairman Patrick Leahy, with his bipartisan co-sponsors, Senator Arlen Specter, Senator Herb Kohl and Senator Richard Durbin.

We invite you to bring your leadership to bear in these efforts to improve and strengthen the DMC core requirement and to increase related resources provided through the JJDPAs and the Department of Justice, including increases in appropriations, training and technical assistance, and research and evaluation. Moreover, President Obama’s Administration and your positions of leadership at the Department of Justice provide CJJ and its members with a moment in time to give action to ideas and concerns regarding a vital federal-state partnership aimed at eliminating DMC.

Therefore, the CJJ Ethnic and Cultural Diversity Committee, along with the National DMC Coordinator Representative who sits with the CJJ Executive Board, gathered input and developed the following DMC recommendations to share with you. We, respectfully, submit them for your consideration.

RECOMMENDATIONS:

Increase support for State DMC Coordinators:

DMC Coordinators are charged with responsibility to promote and implement the goals of the JJDP and more specifically the DMC purposes and requirements of the JJDP in the states.^x They are knowledgeable and capable partners with the federal government, who serve their states, SAGs, local communities and others, and may be readily called upon for insights about training, evaluation, data development and analyses, community-level strategies and system-change approaches with promise to eradicate DMC.

- 1. CJJ recommends that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) build greater capacity, in terms of staffing and resources, to effectively engage with and further support state DMC Coordinators:**
 - a. We recommend that OJJDP provide a means for the state DMC Coordinators to be regularly convened as a professional cohort, to offer sound advice to federal actors, as well as for cross-training and professional development;
 - b. We recommend that funding be dedicated to assist states to hire and/or sustain full-time DMC Coordinators especially given the need for more vigorous DMC efforts;
 - c. CJJ recommends, too, that OJJDP, CJJ, and other knowledgeable partners work collaboratively to ensure that every SAG is effective in its approach to DMC reduction, working in concert with their states' respective DMC Coordinators.

Ensure well-resourced partnerships with the states to effect real and sustained reductions in DMC:

As a result of the DMC core requirement in the JJDP, states, as well as localities, are making concerted efforts to address disparities and over-representation, and as noted above, some jurisdictions have started to see positive results. CJJ believes that amplified federal support for state efforts will produce even greater, sustainable results.

- 2. CJJ recommends that the DMC core requirement be elevated and managed in a manner that comports with the other three JJDP core requirements.**
 - a. As with the other three core requirements of the JJDP, which are informed by associated implementation regulations and a set of metrics that must be substantially met for states to receive full federal funding, CJJ recommends that such regulatory guidance and performance measures be developed for DMC as well;

- b. CJJ recommends that OJJDP work closely with states to craft outcome measures and deliverables for DMC reduction and offer concrete incentives (financial and technical) for states to move beyond data collection to implementation of time-bound action steps;
- c. We also recommend that OJJDP and its federal partners increase research funding and support for evaluation of best and promising field practices, system reform efforts and policy advances in DMC.

Serve as a national “hub” of DMC leadership, resources and activity:

Many of the major advances and gains in addressing DMC have been led by OJJDP. There is no question that when OJJDP places a strong emphasis on eliminating and resolving DMC, it serves as a powerful engine for productive change at the national, state and local levels.

3. CJJ recommends that OJJDP further enhance its position as a leader and purveyor of critical knowledge, funding and other resources needed to eliminate DMC:

- a. CJJ recommends that OJJDP serve as a “hub” of knowledge and expertise by establishing a staff director and an explicit function/point of connection entirely devoted to DMC;
- b. We recommend that OJJDP place greater emphasis on the development and implementation of its DMC reduction curricula and training for State DMC Coordinators and all others who would benefit from participating in such training;
- c. CJJ recommends that OJJDP draw from the innovations of key organizations advancing DMC work outside of the federal government, by exploring the results of the Models for Change initiative of the John D. and Catherine T. MacArthur Foundation, the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation, the work of the Center for Children’s Law and Policy, the Latino Juvenile Justice Network of National Council of La Raza, the W. Haywood Burns Institute, the Sentencing Project, and the School to Prison Pipeline Consortium, as well as many other national, state and local entities that have developed new ways of examining and reducing DMC;
- d. CJJ recommends that OJJDP create a resource center to greatly enhance its development and dissemination of DMC best practices, including an easily accessible Web-based repository of resources that stays current with the most effective policy and practice efforts in the nation;
- e. We also recommend that OJJDP increase transparency in all DMC work by annually reporting a snapshot of the status of the nation and all states with regard to DMC reduction.

We appreciate your consideration of these recommendations as part of your priorities for the new Administration of OJJDP and the JJDP and welcome your thoughts and questions. As you know, CJJ has invited Ms. Robinson and Mr. Slowikowski, as well as other OJJDP representatives, to join us when our members come to the Washington, DC, area in early May (May 2-4, 2009) for our annual national conference. This would enable them to discuss these matters in person and present the perspectives of your Department. We would be most honored to have all of you join us in May.

Respectfully submitted, on behalf of the CJJ Executive Board and CJJ Ethnic and Cultural Diversity Committee,



Robert H. ("Robin") Jenkins, Ph.D., National Chair



Gina E. Wood, Ethnic and Cultural Diversity Chair



Brad Richardson, National DMC Coordinator Representative



Nancy Gannon Hornberger, Executive Director

Coalition for Juvenile Justice (CJJ)

PLATFORM POSITION REGARDING REAUTHORIZATION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT (JJDP)

***CJJ COUNCIL OF THE SAGS* OUR SUCCESS, OUR AMBITION AND OUR CHARGE**

When first enacted in 1974, the federal Juvenile Justice and Delinquency Prevention Act (JJDP) set an ambitious agenda: to effect a partnership between the federal government and the States through which the States would be inspired to reform their juvenile justice systems and the federal government would commit itself to providing the guidance and resources necessary to make that happen; all with the goal of protecting our nation's children and youth and improving public safety. Thirty years later, the achievements of that statutory agenda are nothing less than remarkable. The JJDP stands as one of the most successful standard-setting statutes at the federal level, and at its heart recognizes the value of citizen-driven efforts to prevent and stem delinquency.

We, the Chairs and voting representatives of the State Advisory Groups on Juvenile Justice (SAGs), who comprise the CJJ Council of SAGs, are engaged through the JJDP, as citizen volunteers, working in partnership with government to develop and guide State and local efforts to prevent delinquency, protect youth, hold youth accountable in age-appropriate ways and ensure the fair and effective administration of juvenile justice.

By design, the JJDP has allowed the Congress to engage SAG leaders, as citizen volunteers, from many disciplines and walks of life. Thereby, the JJDP serves as a mechanism for citizens to partner with government and inform the best possible strategies for delinquency prevention. As such, our representative body of SAG members includes the views of youth and parents, judges, defenders and prosecutors, as well as law enforcement professionals, educators and human service providers.

Through our collaborative efforts with State, local and private actors, over the last 30 years we have demonstrated the effectiveness of timely, fair and productive prevention and intervention efforts and achieved near-historic lows in rates of juvenile offending. Moreover, the research, evaluation, oversight and technical assistance functions of the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), chartered under the JJDP under the U.S. Department of Justice, have contributed to the expertise in the field as well as the discovery and replication of evidence-based and promising practices across the nation.

While much has been accomplished, more needs to be done in order for us to sustain and fully accomplish our goals—based on research, empirically-supported practice and a growing body of knowledge in the field. Far too often, children and youth are still subjected to deplorable conditions of confinement and denied effective, age-appropriate responses. Children who may be better served outside of detention and corrections, such as children who are truant or who suffer with mental health problems, are still today needlessly placed in locked confinement. In addition, minority youth may not be guaranteed equitable treatment when they come into contact with the juvenile justice system.

In recent years, increasing disengagement by the federal government, as demonstrated by dramatically decreased funding and shrinking capacities at OJJDP to effectively perform its core functions of research, oversight and technical assistance to the field, have created barriers to the further advancement of effective and best practices under the JJDPA. Thus, our continuing success depends on Congress reaffirming and enhancing the provisions of the JJDPA, and providing the leadership and financial resources needed to fulfill such provisions to the greatest possible extent.

Therefore, CJJ urges the Congress to Reauthorize the JJDPA as soon as possible, with an eye toward improving upon an already successful federal law—which has at its core the safety and success of our nation’s children, youth and families.

Representing the SAGs nationwide is our representative body, the CJJ Council of State Advisory Groups (SAGs), comprising forty-five (48) SAG Chairs/Chair-designees from the States, Territories and District of Columbia.

On this 27th day of April, 2008, the Council has consented by a two-thirds majority of States present and voting to ratify this Platform of Position on the Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA).

Witnessed by: Robert H. (“Robin”) Jenkins, Ph. D.
Robert H. (“Robin”) Jenkins, CJJ National Chair, 2008

Summary of Platform

REAFFIRM AND STRENGTHEN THE FEDERAL-STATE PARTNERSHIP

- I. Preserve and advance best practices in juvenile justice and delinquency prevention by increasing federal authorizations and appropriations for the JJDPA grant programs and restoring the capacity of the federal Office of Juvenile Justice and Delinquency Prevention.
- II. Promote empirically-supported/evidence-based practices and promising practices, and reward well-run State and local juvenile justice systems, by establishing Incentive Grants under Title II and Title V of the JJDPA.
- III. Support States’ efforts to comply with the core protections of the JJDPA by making any funds withheld from States due to non-compliance available to those States in the form of Improvement Grants.
- IV. Improve the partnership between the federal government and the States by increasing OJJDP transparency, timeliness in rule making and accountability.
- V. Ensure that national efforts in juvenile justice have a dedicated “home” within the U.S. Department of Justice, distinct from the larger focus on criminal justice, for purposes of developing national policies, objectives, priorities and plans, advancing research to ensure

comprehensive knowledge of delinquency, and providing guidance, support and oversight to States and Territories implementing the JJDP.

- VI. Ensure that federal juvenile justice policy and practice are informed by the knowledge and expertise of the field by confirming and restoring the original advisory and technical assistance functions of an independent, non-partisan, nonprofit and representative organization of State Advisory Group members.

REAFFIRM AND ENHANCE SAFEGUARDS FOR CHILDREN AND YOUTH WHO COME INTO CONTACT WITH THE JUSTICE SYSTEM

- VII. Support States that choose to safeguard youth by serving them in juvenile facilities after such youth have reached the State's age of majority, and where allowable by court order or state law, by revising the "adult inmate" definition.
- VIII. Safeguard runaways, truants, youth exploited through prostitution and other vulnerable youth by working to remove exceptions to the deinstitutionalization of status offenders (DSO) core protection.
- IX. Safeguard all pre-adjudicated youth under the age of 18 by working to bring them under the sight and sound separation and adult jail removal core protections of the JJDP.
- X. Ensure that all children and youth are treated fairly by guarding against and reducing racial and ethnic disparities shown to occur in the juvenile justice system and elevating the disproportionate minority contact (DMC) core protection.**
- XI. Safeguard vulnerable and high risk youth who may be in need of family support and/or comprehensive behavioral health services for mental health and substance abuse needs.
- XII. Safeguard vulnerable and high risk youths' right and need for competent, effective and zealous representation in all proceedings where children are entitled to counsel.

REAFFIRM THE PREVENTION AND REHABILITATION GOALS OF THE JJDP

- XIII. Preserve the community-connected prevention, youth development and rehabilitation emphases of the JJDP by ensuring that it is not linked to new or enhanced federal penalties for juveniles, or federal incentives that direct states to develop new or enhanced penalties for juveniles.

Excerpted text of the CJJ DMC Recommendation:

- X. **Ensure that all children and youth are treated fairly by guarding against and reducing racial and ethnic disparities shown to occur in the juvenile justice system and elevating the disproportionate minority contact (DMC) core protection.**

WHEREAS, the JJDPa has not kept pace with practices in the field regarding DMC reduction and does not provide clear guidance as to what is meant in regards to reducing racial and ethnic disparities; and

WHEREAS, SAG members, through CJJ, were instrumental in raising concerns about the “differential treatment of minority youth” and gaining the support of the Congress to add the core protection on DMC to the JJDPa in 1989, as noted by OJJDP’s Disproportionate Minority Confinement: 1997 Update (<http://ojjdp.ncjrs.org/jjbulletin/9809/intro.html>); and

WHEREAS, reducing racial and ethnic disparities and DMC within the juvenile justice system is supported by CJJ’s Formal Position Statement on “Unequal Treatment of Minority Youth in the Juvenile Justice System/DMC and Disparities (Adopted in 1989; updated in 2001)”; and

WHEREAS, in many parts of the country accurate data are lacking on the frequency or type of juvenile justice contact occurring among certain racial and ethnic minority youth, and without accurate data, it is difficult for communities to identify, plan and coordinate effective and culturally appropriate services to reduce such contact; and

WHEREAS, in several parts of the country, State, local and private actors have collaborated to develop effective methods, practices and programs, including use of decision-making tools, to achieve measurable reductions in DMC; and

WHEREAS, these methodologies, practices and programs can and should inform the DMC core protection under the JJDPa to assist all States in achieving similar results;

RESOLVED: Amend the disproportionate minority contact (DMC) core protection of the JJDPa to require States to: 1) establish coordinating bodies to oversee efforts to reduce disparities; 2) identify key decision points in the system and criteria by which decisions are made; 3) create systems to collect and analyze local data (disaggregated by descriptors such as race, ethnicity, offense) to identify where disparities exist, using financial and other incentives from the federal government to help jurisdictions to create these systems; 4) develop and implement a plan to address disparities that includes measurable objectives for change; 5) publicly report findings; 6) evaluate progress toward reducing disparities. In keeping with the above, increase congressional appropriations and expand the training and research functions of OJJDP to support refinements to the DMC core protection.

*Approved by 34 of 37 States present and voting (AR, AZ, CO, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, MN, MO, MS, MT, NC, NE, NH, NJ, NM, NV, OR, PR, SC, TN, UT, VA, VT, WA, WI). 2 opposed (ND, NY); 1 Abstained (AK).

ⁱ Sickmund, Melissa, Sladky, T.J., and Kang, Wei. (2008) "Census of Juveniles in Residential Placement Databook." Online. Available: <http://www.ojjdp.ncjrs.gov/ojstatbb/cjrp/>.

ⁱⁱ Puzanchera, C., Finnegan, T. and Kang, W. (2007). "Easy Access to Juvenile Populations" Online. Available: <http://www.ojjdp.ncjrs.gov/ojstatbb/ezapop/>

ⁱⁱⁱ Sickmund, Melissa, Sladky, T.J., and Kang, Wei. (2008) "Census of Juveniles in Residential Placement Databook." Online. Available: <http://www.ojjdp.ncjrs.gov/ojstatbb/cjrp/>

^{iv} National Council on Crime and Delinquency, "And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System," January 2007.

^v *Id.*

^{vi} *Id.*

^{vii} Conversation with Laurie Brown, Peoria County Site Coordinator, August 6, 2007.

^{viii} Conversation with Britt Canary, Travis County Juvenile Probation Department, April 4, 2008.

^{ix} Coalition for Juvenile Justice (CJJ), Executive Summary to "State-Level Detention Reform: A Practice Guide for State Advisory Groups," June 2008, Coalition for Juvenile Justice, Washington, DC and Annie E. Casey Foundation, Baltimore, MD.

^x "States" refers to all states, territories and the District of Columbia, hereafter.