

A PIVOTAL MOMENT:

Sustaining the Success and Enhancing the
Future of the Juvenile Justice and
Delinquency Prevention Act

COALITION FOR JUVENILE JUSTICE
SEPTEMBER 2009



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First and foremost, we thank the Juvenile Justice Specialists, Compliance Monitors and DMC Coordinators across the nation charged with guiding and helping to support implementation of the federal Juvenile Justice and Delinquency Prevention Act (JJDP A) at the state and local levels. This report originates from and is informed by their individual and collective commitment, insight and expertise.

We also thank the Justice Policy Institute (JPI) for developing, administering, analyzing and summarizing the findings of the CJJ Compliance Survey, which forms the factual basis for this report and related recommendations. We extend special thanks to the principal JPI researchers and writers of the CJJ Compliance Survey Results Narrative, Amanda Petteruti and Nastassia Walsh.

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A Letter from CJJ National Leaders to the President, Members of Congress, the Attorney General, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Members and Staff of the State Advisory Groups on Juvenile Justice and fellow CJJ Members and Allies:

Since its enactment on September 7, 1974, the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) has engaged state and local governments, through citizen-volunteers and professional staff, to work in partnership with the federal government to improve juvenile justice and delinquency prevention practices, safeguard court-involved youth and support the success of youth, families and communities across the nation. The results of these collaborative efforts over 35 years demonstrate the effectiveness of timely, fair and productive prevention and intervention efforts and have contributed to near-historic lows in rates of juvenile offending.

As a new Administration continues to take shape, and as Congress prepares to reauthorize the JJDPA, we look to inform and strengthen state and federal efforts to further achieve the goals of the JJDPA, with a particular emphasis on state compliance with the JJDPA's core requirements. In doing so, we rely on the findings of a first-of-its-kind national survey designed to identify with particularity state compliance challenges, as well as the best practices states implement to meet those challenges and maintain compliance with the JJDPA.

We are at a pivotal moment. The status and the future of the gains made under the JJDPA are somewhat at risk. The JJDPA – still a vitally important and strong vehicle for delinquency prevention – once represented the cutting edge and highest standards in delinquency prevention and juvenile justice, but today it does not fully reflect leading knowledge and innovation. We, therefore, join with and commend all members of Congress to improve and strengthen the JJDPA in the pending reauthorization so that its purposes and implementation are premised on lessons learned through state and local innovation and a growing base of science and knowledge about “what works” and what holds promise to prevent and resolve juvenile offending.

With urgency, we also underscore another pivotal decision to be made by this federal administration and the Congress: will the JJDPA receive the federal resources and support needed to be optimally effective? Cost-efficient and dedicated resources, including visionary leadership, adequate appropriations and practical supports in the form of training, technical assistance, research and evaluation, are needed to ensure effective implementation of the JJDPA. In the last decade, however, the states and citizen-volunteers charged to meet the JJDPA's mandates and purposes have experienced a steady divestment of federal vision and resources.

When taken in this light, the states' determination to stay the course and continue to implement the JJDPA, and further improve upon it, is truly remarkable and demands like responses from federal partners. To continue to turn away from one of the nation's most widely embraced and successful standard-setting statutes – one that is well supported by state and local budgets and

citizen-volunteers – would be counterproductive.

Our hope is that the wisdom and ideas advanced in this report will provide a roadmap for all stakeholders at the state and national levels to work in partnership regarding strategies needed to build on success and confront emerging challenges. We respectfully submit this report and related recommendations derived from the survey's findings to the President, Members of Congress, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, members of the State Advisory Groups on Juvenile Justice and the Juvenile Justice Specialists, Compliance Monitors and DMC Coordinators charged with implementing the JJDP.

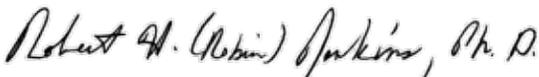
Thank you for your time and attention to these important matters.

On behalf of the Coalition for Juvenile Justice we look forward to working with all of you to sustain and advance the positive development of youth and families and the safety of our communities nationwide.

Sincerely,



David R. Schmidt (NM), National Chair, 2009-2011



Robert H. ("Robin") Jenkins (NC), Immediate Past National Chair, 2007-2009

About the Coalition for Juvenile Justice

The Coalition for Juvenile Justice (CJJ) was founded in 1984 by citizen-volunteers and juvenile justice practitioners appointed by the chief executives of the U.S. states, territories and the District of Columbia and charged with fulfilling the goals of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA). CJJ's nationwide scope includes more than 1,500 members from many walks of life and professional disciplines who share the mission of improving the life circumstances and future opportunities of vulnerable and troubled youth involved with the courts, thereby building safe communities for all.

In keeping with our mission, CJJ's principal objectives are:

- To ensure that voice and credibility are given to state-identified concerns and needs in juvenile justice and delinquency prevention by representing the governor/chief executive-appointed State Advisory Groups (SAGs) operating under the JJDPA and nationwide allies;
- To advance policy and practice recommendations to the President, Congress, the U.S. Supreme Court, and the Administrator of the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), as well as to our nation's Governors and state legislators; and
- To generate collegial support and the lively exchange of information among our nationwide membership.

To accomplish these objectives, CJJ advances several key initiatives, including:

- Conferences and training programs to promote empirically-supported best practices;
- Government relations activities to inform the work of the President, Congress, the U.S. Supreme Court and federal agencies addressing the needs of children, youth, families, community safety and the justice system;
- Leadership development activities addressing the needs and interests of the nation's SAGs; and
- State and local system-improvement efforts, including multi-year partnerships with two leading reforms: the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation and Models for Change, an initiative of the John D. and Catherine T. MacArthur Foundation.

CJJ also promotes collaboration by supporting and partnering with like-minded allies by:

- Serving as host and fiscal partner for the National Juvenile Justice Network (NJJN), a coalition of 38 child advocacy organizations spanning 32 states that strive to improve state policy and practice in the area of juvenile justice; and
- Co-chairing the National Juvenile Justice and Delinquency Prevention Coalition, involving national, state and local organizations in a coordinated effort to inform federal juvenile justice policy, and serving as co-convenor of the Act-4-JJ Campaign for Reauthorization of the JJDPA.

Table of Contents

Executive Summary	12
Introduction	17
The Federal-State Partnership on Juvenile Justice and Delinquency Prevention	17
The JJDPa National Compliance Survey	25
Findings: Critical Areas of Success	27
Findings: Critical Areas for Improvement	31
Findings: Specific Compliance Concerns	39
Deinstitutionalization of Status Offenders (DSO)	40
Disproportionate Minority Contact (DMC)	46
Native American Tribal Communities and the JJDPa	52
Conclusion and Recommendations	56
Publications from the Coalition for Juvenile Justice	66
Endnotes	68

EXECUTIVE SUMMARY

When first enacted in 1974, the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) set an ambitious agenda: create a partnership between federal and state, tribal and territorial governments to more effectively prevent juvenile delinquency, respond to delinquent behavior, reform juvenile justice systems to be more effective and improve community safety.

Under this partnership, the 50 U.S. states, five U.S. territories and the District of Columbia (“the states”) agree to voluntarily adhere to a set of standards to coordinate state and local efforts in delinquency prevention and improve the care and custody of court-involved youth. In turn, the federal government, via the Office of Juvenile Justice and Delinquency Prevention (OJJDP), provides the technical, research-related and financial resources states need to comply with JJDPA standards and requirements, and achieve meaningful reductions in juvenile offending.

Thirty-five years later, the results of this statutory agenda are nothing less than remarkable. The overwhelming majority of U.S. states and territories voluntarily adhere to the JJDPA’s federal requirements and make effective use of its resources to improve their juvenile justice systems. In support of these efforts, OJJDP provides oversight, technical assistance and other supports to the field, and advances research and evaluation initiatives to identify and replicate best practices in juvenile justice and delinquency prevention. As a result, communities and families across the nation, as well as youth who come into contact with the juvenile justice system today, are better served than they were 35 years ago.

States report that they find it increasingly difficult to maintain compliance with the JJDPA due to various challenges at the federal and state levels, some of which have emerged in the last decade.

In 2009, this federal-state partnership under the JJDPA is at a pivotal point. According to a first-of-its-kind national survey administered by the Coalition for Juvenile Justice (CJJ) and the Justice Policy Institute, states remain committed to the goals of the JJDPA and are eager to make additional advances in delinquency prevention and juvenile justice reform. At the same time, states report that they find it increasingly difficult to maintain compliance with the JJDPA due to various challenges at the federal and state levels, some of which have emerged in the last decade.

The results of the CJJ Survey of State JJDPA Compliance Challenges and Successes (“the CJJ survey”), administered in July 2008, include self-reported, unverified responses from up to 53 distinct states and territories. Among the principal findings:

- Thirty-five years after its enactment, 55 of 56 states and territories voluntarily participate in the JJDPA.
- Eighty-five percent of survey respondents were in compliance with all four JJDPA core

requirements as of their last compliance audit. (Note: 90 percent of *all* states are in compliance with all four core requirements as of their 2007 compliance audits.)

- States value the federal-state partnership established under the JJDP, and have pursued innovations, including public-private partnerships, to make optimal use of federal resources to significantly contribute to near-historic lows in rates of the juvenile offending.
- States continue to embrace OJJDP as a critical partner in their efforts to comply with the JJDP, identify and replicate best practices and improve outcomes for youth, families and communities nationwide.

Taken together, these findings demonstrate that the JJDP is fulfilling its purposes.

The findings, however, also highlight areas where more must be done to support the states as they implement the JJDP. According to survey respondents:

- Dramatic decreases in federal funding to the states appropriated under the JJDP threaten states' ability to maintain compliance with the JJDP core requirements.
- Dramatic decreases in federal funding to OJJDP appropriated under the JJDP hamper OJJDP's ability to support states in their efforts.
- States seek clearer and more consistent communication from OJJDP regarding compliance expectations and obligations, especially around new or revised rules and regulations.
- States seek increased training and technical assistance around compliance best practices, and an improved response time to their training and technical assistance requests.
- Almost half the states find maintaining compliance with the Deinstitutionalization of Status Offenders (DSO) and Disproportionate Minority Contact (DMC) core requirements particularly challenging.
- Unique challenges arise around JJDP compliance for states that have Native American tribal communities and populations within their borders.
- Compliance challenges may also exist for rural/frontier states with a large geographic spread because transportation and other related costs required for monitoring may be high whereas the youth population, and by extension the formula grant allocation received, are low.

As revealed in the survey, states appear to have identified state and local policies and practices that bring about some of the above-listed compliance challenges, as well as those that facilitate compliance success. Where barriers were identified, they plainly highlight areas where states need additional resources from Congress, OJJDP and other knowledgeable partners. Where successes were identified, they raise potential for peer support and networking among states, and evaluation and information dissemination by OJJDP and other leaders in the field.

As 2009 marks the 35th Anniversary of the JJDPA, all JJDPA stakeholders must seize this pivotal moment to sustain the success and enhance the future of the JJDPA. Based on the results of the CJJ survey, CJJ and its nationwide membership make the following recommendations to key stakeholders regarding strengthened or new policies and practices that can support state successes and alleviate state challenges with JJDPA compliance:

To the President and the Congress of the United States:

- 1. Reauthorize a strong and forward-looking Juvenile Justice and Delinquency Prevention Act (JJDPA) that builds on the growth of knowledge and innovation in juvenile justice, strengthens the federal-state partnership and provides additional compliance supports to the states.**
- 2. Restore, increase and preserve core federal funding to the states under the JJDPA to maintain reductions in juvenile delinquency and strategically leverage the cost-effective use of public dollars to promote youth success and community safety.**
- 3. Appoint and confirm a visionary and proven leader with deep juvenile justice experience as Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP).**
- 4. Provide meaningful resources to OJJDP and the states and require development of a national, research-informed strategy to reduce the disproportionately high rates of contact minority youth have with state and local juvenile justice systems.**

To the Office of Juvenile Justice and Delinquency Prevention:

- 5. Improve the timeliness and clarity of OJJDP's communications with the States, particularly around compliance mandates and expectations.**
- 6. Prioritize OJJDP's training and technical assistance functions, particularly around DSO and DMC compliance.**
- 7. Increase federal coordination and support state collaboration with tribal nations and populations to better identify and address the unmet needs of tribal youth and tribal communities.**
- 8. Analyze areas where state and local policies, including laws, codes and administrative procedures, run counter to JJDPA requirements and purposes, and highlight ways in which states can modify those policies to conform with the JJDPA.**

To the State Advisory Groups and JJDP state staff:

9. Increase expertise and maximize opportunities to educate key decision-makers about what the JJDP requires and how the JJDP can benefit community safety and youth and family success in your state.
10. Fully support and make strategic use of your state's compliance monitoring system, including compliance monitoring staff and compliance reports and audits, to identify compliance barriers, highlight compliance successes and inform State Three-Year Plans under the JJDP.
11. Work closely with your governor/chief executive and state legislature (and county officials as appropriate) to align state law and policy with the mandates of the JJDP.
12. Advocate for the development and implementation of a comprehensive, state-wide data collection and analysis system to better inform and support DMC reduction efforts.
13. Continue to leverage federal funding to increase community based alternatives to detention and incarceration and further develop relationships with non-federal partners to support the same.
14. Where applicable, make strategic use of all available resources to develop and sustain relationships with tribal nations.

To the Coalition for Juvenile Justice:

15. As the national representative organization of JJDP State Advisory Groups (SAGs), inform the appointment of a new OJJDP Administrator and, where possible, facilitate an effective and transparent working relationship between the SAGs and OJJDP.
16. Continue working with the SAGs, JJDP state staff, like-minded allies and the Congress to inform a strong and forward-looking reauthorization of the JJDP.
17. Continue to work with the SAGs, JJDP state staff and like-minded allies to restore and increase congressional appropriations to the states under the JJDP.
18. Work with the SAGs, JJDP state staff and like-minded allies to develop, amplify and disseminate evidence regarding the cost-effectiveness of the JJDP.
19. Work collaboratively with the states to help them identify and change those laws and

policies that present barriers to state compliance with the JJDP.

20. Maximize training and technical assistance expertise to assist the states in sharing information regarding best practices in JJDP compliance through CJI SAG Source™ (CJI's on-line information resource and virtual library for SAG members), peer-to-peer networking, the development and dissemination of best practice guides and CJI training and conferences.

INTRODUCTION

The Federal-State Partnership on Juvenile Justice and Delinquency Prevention

In the United States, there is no national, centralized juvenile justice system. Rather, there are more than 56 different juvenile justice systems independently operated by the U.S. states, territories, the District of Columbia and local governments. Consequently, policies and procedures vary widely from state to state and among local jurisdictions within the same state. Too often, the result is a patchwork quilt of juvenile justice systems that has the potential to produce inconsistent outcomes for youth, families and communities, including youth exposure to physical, mental and emotional injury.

In the absence of a centralized system, the federal role in juvenile justice prior to the 1960s was limited and had little impact on the way states dealt with youth at risk of delinquency or accused and adjudicated for a delinquent offense. To address inconsistencies and to improve outcomes for youth and community safety, in 1974 Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDP A)¹ and changed the way in which states approached juvenile justice.

The JJDP A sets forth national priorities for juvenile justice and delinquency prevention, and embodies the federal government's influence on the numerous and distinct juvenile justice systems in operation in the U.S. states, territories and the District of Columbia ("the states"). The JJDP A also articulates and supports a partnership between the federal government and the states whereby each supports the other to prevent juvenile delinquency in the first instance, and respond effectively to delinquent behavior and the needs of court-involved youth.

The JJDP A Core Requirements

The JJDP A, currently due for congressional reauthorization, sets forth four core requirements with which states must comply in order to be eligible to receive federal funding under the statute. The purpose of each core requirement is to safeguard youth who come into contact with juvenile justice systems, and to ensure appropriate, safe and rehabilitative treatment. Individually, the core requirements target different outcomes.

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Collectively, they create a framework for states' duties of care regarding court-involved youth.

Deinstitutionalization of Status Offenders (DSO).² Under this requirement, youth charged with a status offense – an offense that only applies to a minor whose actions would not be considered an offense at the age of majority, such as skipping school, running away, breaking curfew and possessing or using alcohol or tobacco – may not be held in secure detention or confinement. This provision seeks to ensure that youth who have not committed a delinquent or criminal offense are not held with those who have and, instead, receive the family- and community based services needed to address and ameliorate the root causes of their behavior. There are, however, four (three statutory and one regulatory) exceptions to this rule. For purposes of this report, the most relevant exception is the valid court order (VCO) exception, which allows judges to order the locked/secure detention of status offenders who have disobeyed a court order, e.g., an order not to run away again or to regularly attend school.

Adult Jail and Lock-up Removal (“Jail Removal”).³ Under this requirement, youth charged with a status offense may not be securely detained in adult jails or lock-ups under any circumstances, and youth charged with a delinquent offense may not be securely detained in adult jails and lock-ups except for limited periods of time under certain circumstances. These “certain circumstances” include at the time of initial arrest or before or after a court hearing (6 hours to allow for processing); in rural areas that have been granted an exception (48 hours plus weekends and holidays); or in unsafe travel conditions. This provision is designed to protect youth from the dangers they may face when incarcerated with adult inmates, such as psychological abuse, physical assault and isolation. This requirement currently does not apply to youth charged and jailed in the adult criminal justice system.

Sight and Sound Separation (“Separation”).⁴ Under this requirement, when youth are securely detained in a locked

facility, sustained “sight and sound” contact with adult inmates is prohibited. This means that youth should not be housed next to adult cells, share dining halls, recreation areas or any other common spaces with adult inmates, or be placed in any circumstance that could result in sustained verbal or non-verbal communication with adult inmates. As with the Jail Removal core requirement, this provision seeks to protect youth from adult threats, intimidation or other forms of psychological abuse and physical assault.

Disproportionate Minority Contact (DMC).⁵ Under this requirement, states assess, monitor and evaluate the disproportionately high contact of youth of color at nine key contact points in the juvenile justice system – from arrest to detention to confinement. Youth of color comprise one-third of the youth population nationwide, but two-thirds or more of youth in contact with the juvenile justice system.⁶ This provision seeks to make the system equitable and unbiased. Originally titled “disproportionate minority confinement,” the DMC core requirement is the most recently enacted core requirement, amended into the Act in 1988 and expanded from “confinement” to “contact” in 2002.

When a state is found to be out of compliance with one or more of the four core requirements, the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) is authorized to reduce the state’s funding allocation under the JJDPA (explained below) by 20 percent per each core requirement with which they are noncompliant.⁷ In addition, the JJDPA currently provides that if a portion of a state’s JJDPA funds are withheld for non-compliance, the state must use 50 percent of its remaining allocation to come back into full compliance with the JJDPA.⁸ This “penalty” urges states not to cherry pick among the core requirements, but instead to achieve and maintain compliance with all of them. Without proper compliance support, however, such a penalty may become a barrier to achieving and sustaining compliance and a disincentive to the states regarding their voluntary participation in the JJDPA.

The JJDPA Core Compliance Resources

In addition to the core requirements, the JJDPA, as envisioned by Congress,

formally establishes a federal-state partnership whereby the federal government and the states work together to achieve both the letter and the spirit of the Act. This partnership provides core resources designed to assist states in their compliance efforts and to advance best practices in delinquency prevention and juvenile justice. Each resource has a particular purpose, and no one resource functions optimally without the others.

The Office of Juvenile Justice and Delinquency Prevention

It is critical that juvenile justice have a dedicated focus and a “home” within the federal government, distinct from a larger focus on criminal justice. The Office of Juvenile Justice and Delinquency Prevention (OJJDP), is the only federal agency charged solely with fulfilling this role.

In order for the federal government to function as a responsive and responsible partner with all states under the JJDPA, it is critical that juvenile justice have a dedicated focus and a “home” within the federal government, distinct from a larger focus on criminal justice. The Office of Juvenile Justice and Delinquency Prevention (OJJDP), housed within the Office of Justice Programs at the U.S. Department of Justice, is the only federal agency charged solely with fulfilling this role, and is authorized and/or mandated under the JJDPA to carry out the following primary functions intended to help states achieve compliance with the statute:

- OJJDP is mandated to provide training and technical assistance to the states to help them achieve a sustainable level of compliance.⁹
- OJJDP is authorized to make grants to States to assist them in meeting the core requirements and developing effective prevention, intervention and justice administration programs.¹⁰
- OJJDP is authorized to monitor and evaluate states’ compliance with the JJDPA and, where necessary, take action, including the withholding of federal grant funds, against those states that fail to comply.¹¹
- OJJDP is authorized to engage in research and evaluation of prevention, intervention and juvenile justice administration policies and practices in order to identify best practices and policies, disseminate those findings and work with states to replicate those practices and policies across the nation.¹²

Within OJJDP, representatives of the State Relations and Assistance Division (SRAD) are principally charged to coordinate with the states and provide oversight, training and technical assistance to help state and local governments achieve the system improvement goals of the JJDPA. SRAD is also the division that monitors state compliance with the JJDPA. To fulfill these roles, SRAD representatives conduct regular in-person and

electronic technical assistance and compliance visits to the states, perform audits of states' compliance monitoring mechanisms and provide initial and continuing training to the Juvenile Justice Specialists, Compliance Monitors and DMC Coordinators ("JJDP state staff") charged with helping their states achieve compliance. SRAD is also the division within OJJDP that has the most direct contact with the states around administration of JJDP funds and other related federal juvenile justice grant programs.

The Federal Coordinating Council on Juvenile Justice and Delinquency Prevention

The Federal Coordinating Council on Juvenile Justice and Delinquency Prevention ("the Coordinating Council") functions as an independent body within the federal executive branch. Chartered under the JJDP and comprising almost two dozen federal agency appointees, as well as citizen-volunteers appointed by the President and the Congress, the Coordinating Council is charged to:

- Coordinate across agencies all federal programs that address juvenile delinquency, and detain or care for unaccompanied juveniles, as well as missing and exploited children, in order to better serve at-risk youth and juveniles;
- Annually make recommendations to the President, and Congress, with respect to the coordination of overall policy and development of objectives and priorities for all federal juvenile delinquency programs and activities and all federal programs and activities that detain or care for unaccompanied juveniles;
- Review the programs and practices of federal agencies and report on the degree to which federal agency funds are used for purposes which are consistent or inconsistent with the core requirements of the JJDP;
- Review and make recommendations with respect to any joint funding proposal undertaken by OJJDP and any agency represented on the Council; and
- Review the reasons why federal agencies take juveniles into custody and make recommendations regarding how to improve federal practices and facilities for holding juveniles in custody.¹³

The U.S. Attorney General serves as Chair of the Coordinating Council and the OJJDP Administrator serves as Vice-Chair.¹⁴ When it functions well,

the Coordinating Council helps to maximize federal resources and leverage diverse disciplines and expertise at the federal level to inform and provide oversight for a national agenda for juvenile justice and delinquency prevention.

The State Advisory Groups on Juvenile Justice

Under the JJDP, the governor or chief executive of each participating state must appoint a State Advisory Group on Juvenile Justice (SAG) comprising 15-33 individuals who have training, expertise or special knowledge in delinquency prevention/intervention and the administration of juvenile justice.¹⁵ In addition to other duties that may be assigned to them by the state, SAGs are charged under the JJDP to work closely with the designated state agency and JJDP state staff to fulfill three primary functions:

- To lend their expertise to help develop and implement a State Three Year Plan, and annual plan updates, designed to ensure that their state achieves compliance with the JJDP;¹⁶
- To inform the administration and use of funds authorized under the JJDP to support state compliance, as well as broader purposes of delinquency prevention and juvenile justice reform;¹⁷ and
- In partnership with their respective state administering agency for juvenile justice programs, inform and advise the President, Congress and OJJDP regarding federal juvenile justice and delinquency prevention policies and particular functions or aspects of the work of OJJDP, including rules, regulations and procedures that affect OJJDP and implicate compliance with the requirements of the JJDP.¹⁸

These various provisions clearly demonstrate that Congress intended the relationship between OJJDP and the states to be a mutually beneficial partnership whereby the federal government and the states are accountable to each other, and well-positioned to influence and improve the functions of the other for the benefit of youth, families and communities.

Funds Authorized Under the JJDP

In support of the federal-state partnership and JJDP compliance, the JJDP authorizes “such sums as necessary” for both OJJDP and the states through different but complementary funding streams. For purposes of this report,

the three main funding titles include:

The Title II, Part B, State Formula Grants Program (“Title II”), which provides essential resources to states to help them achieve compliance with the core requirements, including (1) the hiring of state staff to implement the JJDP, (2) support to the SAGs to help them fulfill their roles and responsibilities under the Act (discussed in more detail below) and (3) funding of state and local programs that support JJDP compliance, including prevention, intervention, reentry and justice administration programs.¹⁹

The Title V Local Delinquency Prevention Grants Program (“Title V”), which is administered by the SAGs and passed through to local units of government (requiring a local match) for more targeted delinquency prevention programs and other purposes identified in the JJDP. The Title V program complements the Title II program nicely in that it allows states to strategically engage local jurisdictions in support of statewide efforts to prevent delinquency and improve juvenile justice.²⁰

Title II, Parts A and D, which speak to and provide resources for OJJDP’s policy-setting, grants administration, research, evaluation, training and technical assistance functions in support of state JJDP compliance and broader delinquency prevention and juvenile justice reform efforts.²¹

With the exception of those states that qualify for a minimum allocation, funds for the Title II and Title V programs are allocated proportionately among participating states, based on the state’s youth population as recorded in the last census, i.e., the state population that is less than 18 years of age.²² When appropriations increase in any given year, most states receive a proportional increase in funds. When appropriations decrease in any given year, most states lose a proportional amount of funds, regardless of the state’s particular needs, challenges or opportunities in delinquency prevention and juvenile justice reform. In addition, the population/census-based formula does not take into account realities in states with large geographic spreads and small youth populations, where travel and related costs required to effectively monitor programs and facilities, and to convene the SAG, may be high and the formula grant allocation low.

As currently written, the JJDP Act provides that if the amount of funding appropriated for the Title II program equals or exceeds \$75 million in any given fiscal year, then the minimum amount allocated to a state shall not be less than \$600,000, or \$100,000 for U.S. territories.²³ If, however, the amount appropriated for the Title II program equals less than \$75 million, then the minimum allocation is reduced to \$400,000 or less, or \$75,000 for U.S. territories.²⁴ Almost half the states are “minimum allocation states.”

The importance of adequate appropriations for effective implementation of the JJDP Act’s Title II program cannot be overstated. Overall, states’ compliance efforts have been challenged due to diminishing Title II appropriations and woefully inadequate resources to staff and incentivize state activities and reforms in juvenile justice. Since 2002, the Title II program has seen a dramatic decline in funds appropriated, which means that non-minimum allocation states have seen dramatic decreases in their allocated funds. For FY 2009, Congress appropriated only \$75 million for the Title II program, down from almost \$90 million in FY 2002. As of the writing of this report, level funding is being proposed for all JJDP Act programs in FY 2010.

Unless Congress acts swiftly to restore JJDP Act appropriations, states’ compliance efforts under the JJDP Act, and the impact of those efforts, may be further jeopardized.

In addition, funds to support OJJDP’s Title II, Part A activities have been decimated, down from \$6.8 million in FY 2002 to less than \$700,000 in FY 2006. Since FY 2007, Congress has not appropriated any funding articulated for OJJDP’s Part A activities. Unless Congress acts swiftly to restore JJDP Act appropriations, states’ compliance efforts under the JJDP Act, and the impact of those efforts, may be further jeopardized.

A National Representative Organization of SAGs

To facilitate the federal-state partnership on juvenile justice, Congress mandated that the OJJDP Administrator provide technical and financial assistance to an “eligible organization of member representatives of the [SAGs].”²⁵ In exchange for this assistance, the eligible organization carries out five inter-related functions designed to increase and maintain the flow of information and dialogue between the President, Congress, OJJDP and the SAGs, including:

- Conducting an annual conference of such member representatives for purposes relating to the activities of such State Advisory Groups;

- Disseminating information, data, standards, advanced techniques, and program models;
- Reviewing federal policies regarding juvenile justice and delinquency prevention;
- Advising the OJJDP Administrator with respect to particular functions or aspects of the work of OJJDP; and
- Advising the President and Congress with regard to state perspectives on the operation of OJJDP and federal legislation pertaining to juvenile justice and delinquency prevention.²⁶

Since 1984, CJJ has served as the national representative organization of SAGs, and as an independent nonprofit partner to OJJDP, Congress and the states. In these roles, CJJ endeavors to give voice to state-identified concerns and urgent needs in juvenile justice, advise state and federal policy makers and OJJDP, and generate collegial support and information exchange. Since 1987, CJJ has produced annual reports on state needs and concerns in juvenile justice and delinquency prevention reform for the President, Congress and the OJJDP Administrator, and hosted SAG conferences designed to promote best practices, facilitate the exchange of ideas and support peer-to-peer professional development.

To ensure that its education and advocacy efforts reflect states' experiences and perspectives, CJJ convenes a policy-setting body known as the CJJ Council of SAGs, comprising the Chairs/Chair-designees from SAGs in good standing as members of CJJ. In addition, CJJ is governed by an Executive Board, the officers of which are elected by members of the Council. Today, CJJ has more than 1,500 members from many walks of life and professional disciplines who share the mission of improving the life circumstances and future opportunities of vulnerable and troubled youth involved with the courts – thereby fulfilling the purposes of the JJDP and building safe communities.

The JJDP National Compliance Survey

The structures and modes of operation among our nation's juvenile justice systems vary widely from state to state: some states operate centralized, state-managed systems, others operate county or locally-based systems and most operate with a combination of the two. Given these differences, in addition to differences in state laws, demographics and geographic size, each state has particular needs and must overcome particular challenges

in order to achieve compliance with all the requirements of the JJDPa.

With this in mind, CJJ engaged an independent research consultant, the Justice Policy Institute (JPI), to assist in the development, implementation and analysis of a nationwide survey designed to identify with particularity the sources and types of state compliance challenges, as well as best practices states have implemented to achieve and maintain compliance. This first-of-its-kind survey was constructed to look at current circumstances, as well as trends and changes in recent years.

In order to gain the insights of the practitioners most familiar with JJDPa compliance, JPI designed the survey with significant input and review by the members of the CJJ Compliance Project Advisory Committee comprising Juvenile Justice Specialists, Compliance Monitors, DMC Coordinators, State Advisory Group members and CJJ staff. For ease of administration, the survey was released through Survey Monkey™, an Internet-based survey administrator. The survey allowed for confidentiality and was sent to Juvenile Justice Specialists, Compliance Monitors and DMC Coordinators (“JJDPa state staff”) in all U.S. jurisdictions. Each Juvenile Justice Specialist was asked to coordinate with the Compliance Monitor and/or DMC Coordinator for their respective state so that only one survey was completed and submitted for each jurisdiction. Thus, each “respondent” referenced in this report is representative of one unique state or territory.

The survey response rate varied somewhat by question. Fifty-three respondents answered the first question; an average of 36 respondents answered the final few questions, which were narrower in scope and content. For instance, questions that required specific knowledge or experience, e.g., experience working with Native American tribal populations to achieve compliance, had a smaller response rate. Exact numbers of responses to each question are included with each attendant graph in the CJJ Compliance Survey Results Narrative, which can be viewed in its entirety at www.juvjustice.org. All survey results and related analyses are based on unverified, self-reports provided by the respondents.

FINDINGS: CRITICAL AREAS OF SUCCESS

Overall, CJJ survey respondents expressed that they are supportive of the JJDPA, and that the efforts and resources provided by federal partners, including the Congress and OJJDP, are generally meeting states' needs for assistance to achieve and maintain compliance with the core requirements of the JJDPA.

1. States Remain Committed to the Purposes and Goals of the JJDPA

Of all the messages revealed in the CJJ survey, the strongest message is this: 35 years after its initial enactment, the states and SAGs remain strongly committed to the purposes and goals of the JJDPA. As of the writing of this report, 55 out of 56 states and territories voluntarily participate in the Act. Per the JJDPA's requirements, each of these states maintains a State Advisory Group on Juvenile Justice, and employs one or more professionals to implement the JJDPA at the state and local levels. The sustained interest and collaborative efforts of this small cadre of state, local and private actors – many of whom are volunteers – demonstrates the wisdom of the JJDPA and the effectiveness of timely, fair and productive delinquency prevention and intervention efforts to achieve near-historic lows in rates of juvenile offending.

Thirty-five years after its initial enactment, the states and SAGs remain strongly committed to the purposes and goals of the JJDPA.

2. The Federal-State Partnership is Value-Added

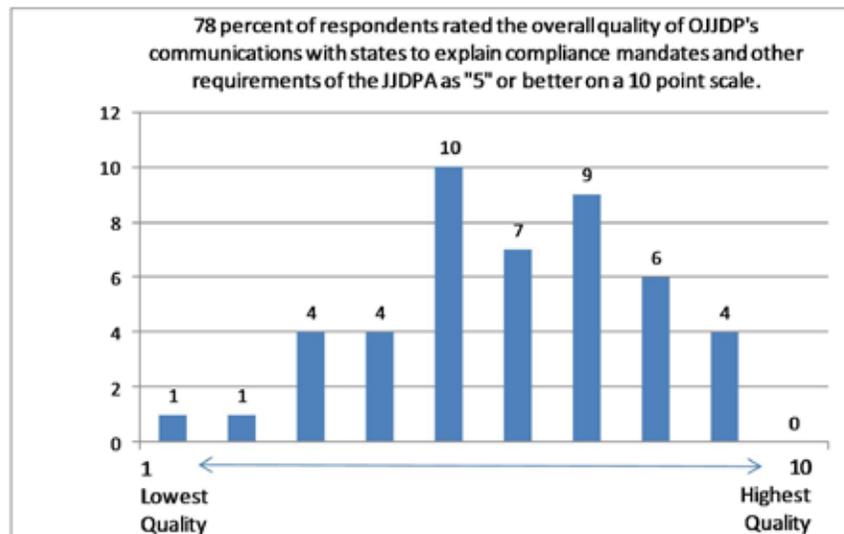
Results of the CJJ survey also confirm that, when properly resourced, the federal-state partnership on juvenile justice and delinquency prevention is a value-added component of the JJDPA and system reform efforts across the states:

- The federal funds appropriated by Congress under the JJDPA and related programs and administered by OJJDP stimulate juvenile justice reform efforts and seed delinquency prevention efforts at the state and local levels.
- The oversight, research, training and technical assistance provided to the states by OJJDP spur innovation, help states replicate best and promising practices and support state compliance efforts so that the requirements of the JJDPA are achieved.
- The expertise and energy generated by the SAGs and JJDPA state

staff ensure the optimal use of public dollars, the development and implementation of long-range plans for systemic improvements, state compliance with the JJDP, and the formulation and adoption of federal policies and practices that advance the field, support youth and family success and improve public safety.

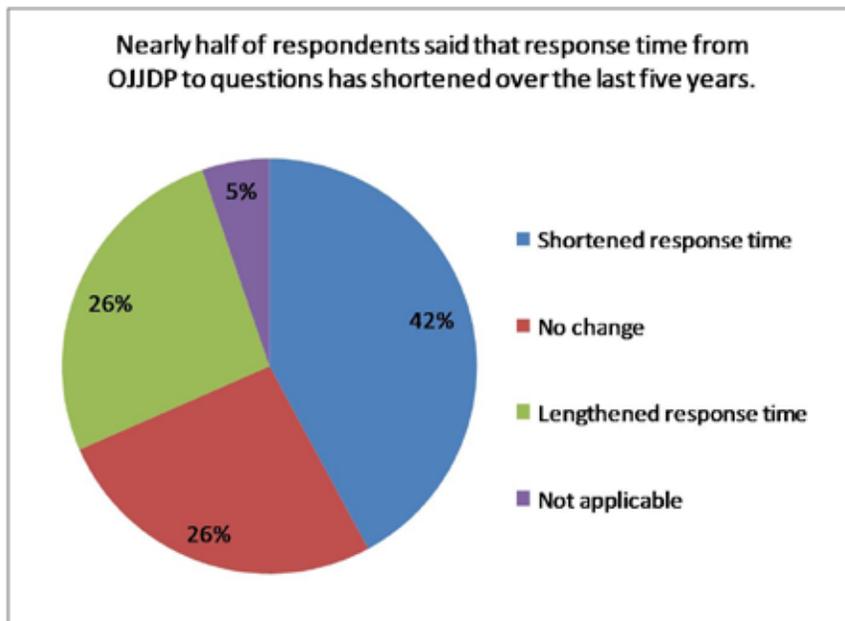
3. OJJDP is a Critical and Appreciated Partner to Help States Comply with the JJDP

As the federal “home” for juvenile justice, OJJDP must maintain a positive link to states and provide states with assistance to achieve and maintain compliance with the JJDP. On average more than half of the survey respondents expressed moderate to high satisfaction with OJJDP’s communication with the states. Seventy-eight percent of respondents rated the overall quality of OJJDP’s communication with states regarding compliance mandates and other requirements of the JJDP as “5” or better on a 10 point scale. Roughly two-thirds of respondents rated the overall quality of OJJDP communication with the states designed to explain *changes* to the mandates and other requirements as “5” or better on a 10 point scale.

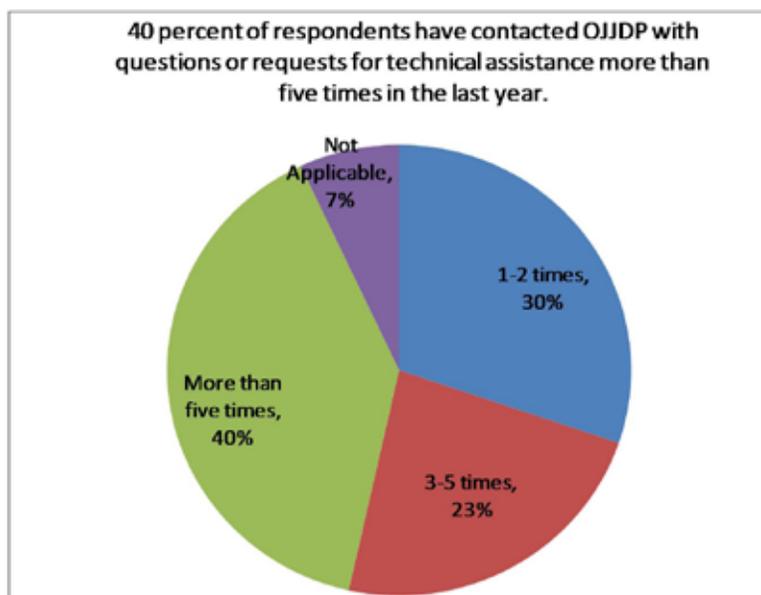


Half of respondents who have held their position for five years or more said that they had experienced an increased number of communications from and with OJJDP in 2008 than compared to the five preceding years. Additionally, nearly half of respondents who have been in their positions for five years or more reported that OJJDP’s response time related to answers

to questions had decreased in the last five years.



In addition, states expressed confidence in OJJDP's ability and willingness to respond to requests for technical assistance. Ninety-three percent of respondents had contacted OJJDP at least once with questions or requests for technical assistance in the last year, with almost two-thirds contacting OJJDP three or more times. Of those who made requests, 71 percent



Question: If you have contacted OJJDP with questions or requests for technical assistance, approximately how many times have you contacted them in the past year? (43 responses)

reported that their requests were answered within one month, and 76 percent reported the helpfulness of OJJDP's response as "6" or better on a 10 point scale.

Finally, more than half the states expressed moderate to high satisfaction with the helpfulness of their OJJDP State Relations and Assistance Division (SRAD) representative. Sixty-two percent of respondents rated the helpfulness of their SRAD representative as "6" or better on a 10 point scale, and 48 percent rated the helpfulness of SRAD visits to their states in order to assist with compliance efforts as "6" or better on a 10 point scale.

FINDINGS: CRITICAL AREAS FOR IMPROVEMENT

While CJJ survey respondents clearly expressed that the SAGs and their states are supportive of the JJDPA, the federal-state partnership it creates and OJJDP, they identified critical areas for improvement regarding compliance support and resources.

1. Dramatic Decreases in Federal Funding for the JJDPA Threaten States' Ability to Sustain Compliance and Fulfill the Additional Goals of the JJDPA.

The funds the federal government provides to the states are essential for states to achieve and maintain compliance with the JJDPA core requirements, and to develop and replicate best practices in keeping with core purposes of the JJDPA. Over the last several years, however, federal appropriations to support JJDPA programs and JJDPA-focused training, technical assistance and research and evaluation delivered to states and localities by OJJDP and its agents have not kept pace with needs in the field. This loss of support for the JJDPA and OJJDP is challenging states' abilities to sustain compliance with the JJDPA.

The diminished role in supporting state JJDPA compliance is most evident within the executive branch. In fiscal years 2007 through 2009, the former Administration's budget zeroed out all JJDPA programs and proposed replacing them with a single competitive block grant program funded at only 60 percent of the current level and not keyed to the purposes and requirements of the JJDPA.²⁷ Under this proposal, state and local entities would have bid against each other for grants and faced uncertainty as to whether they would receive federal funds at all, not to mention at what level or for how long. Moreover, instead of supporting the goals of the JJDPA, the monies could have been used for entirely different matters, with no assurance of equitable distribution among and within states. Such a discretionary, competitive grant program would have produced profound inconsistencies and jeopardized the coordinated nationwide effort to prevent juvenile delinquency and improve juvenile justice systems.

Each time it was presented, Congress rejected the former Administration's proposal. Nevertheless, appropriations for the Title II State Formula Grants Program, authorized under the JJDPA and primarily used to support state compliance efforts, were cut from \$88.8 million in FY 2002 to \$75 million

in FY 2009, a decrease of 16 percent, not accounting for inflation.²⁸ During that same period, appropriations for the JJDPA Title V Local Delinquency Prevention Grants Program – which complements Title II funds and

The damage to the Title V Program is more troubling than it may first appear. For the past few years, between 53 and 97 percent of Title V funds have been earmarked or set-aside for specific programs that do not support JJDPA compliance. For example, of the \$62 million appropriated for Title V in FY 2009, \$25 million was earmarked for the Tribal Youth Program, \$10 million was earmarked for the Gang Resistance Education and Training (G.R.E.A.T.) Program and \$25 million was earmarked for the Enforcement of Underage Drinking Laws (EUDL) Program. These earmarks, totaling \$60 million, represent 97 percent of the Title V appropriation for FY 2009, leaving only \$2 million to be allocated among 55 states.

engages the expertise and additional capacity of local jurisdictions – were cut from \$94.3 million in FY 2002 to \$62 million in FY 2009, a decrease of 34 percent, not accounting for inflation.²⁹ The Delinquency Prevention Block Grant Program, which was created in the 2002 JJDPA reauthorization by consolidating several funding streams, has never been funded.

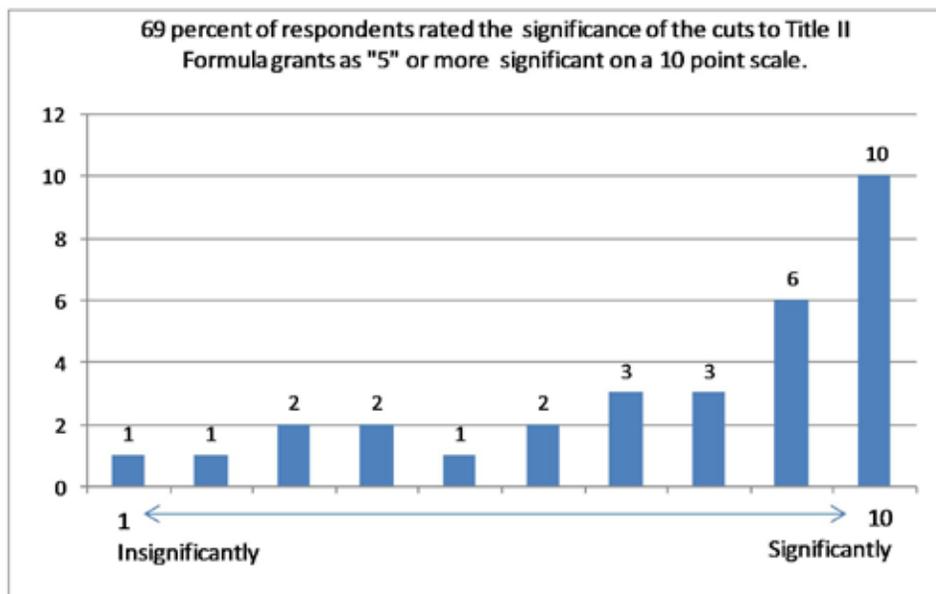
In addition, direct funding for the states' closest and most critical federal partner – OJJDP – has been decimated over the last eight years. In FY 2002, \$6.8 million was appropriated for OJJDP to carry out its oversight, research, evaluation, training, technical assistance and grants administration duties under Part A of the JJDPA.³⁰ Between FY 2002 and FY 2008, however, the amounts available to OJJDP were reduced 97 percent, from \$6.8 million to only \$658,000 in FY 2008.³¹ No federal funds were appropriated for OJJDP to carry out its duties under Part A in FY 2009.³²

As of the writing of this report, President Obama's FY 2010 Budget Proposal proposes no discernible funding for OJJDP to carry out its duties under Part A of the JJDPA; maintains the status quo/level funding for the Title II and Title V programs; and continues to allow nearly all of the Title V program funds to be set-asides/earmarks, which gut the core purposes of Title V (\$60 million in set-asides vs. \$2 million for Title V purposes).³³ The President's budget also eliminates funding for juvenile justice "Demonstration Programs," funded at \$82 million in FY 2009, and instead proposes \$25 million for a new program titled "Community-based Violence Prevention Initiatives."³⁴ As a matter of policy, we wholeheartedly support removing the set-asides/earmarks that have been housed in the Demonstration Programs funding stream in past years. Earmarks and set-asides on federal JJDPA program funds undermine the ability of states' to fulfill the letter and the spirit of the JJDPA, and complicate the federal government and the states' abilities to ensure that federal funding is being invested wisely and yielding measurable reductions in juvenile crime and delinquency. However, a

decrease in set-aside/earmarked funding without an equal increase in more widely available program dollars keyed to the mandates and goals of the JJDPAs amounts to yet another decrease in federal support for state and local delinquency prevention and juvenile justice reform efforts.

In the face of the aforementioned cuts, 55 of 56 states currently participate in the JJDPAs, and the overwhelming majority of them are in compliance with all of its core requirements. In addition, while some cities have seen slight upticks in their juvenile delinquency rates, most of the nation continues to experience near-historic lows in rates of juvenile offending. Yet, the dramatic decline in federal appropriations to support the goals and purposes of the JJDPAs raises questions about whether states have reached or will reach a “breaking point” in terms of effective implementation of their compliance systems. Effective implementation of the JJDPAs is dependent on increased appropriations for OJJDP and the programs that support the states – modest investments in a strong system of state-level standards and services that protect children, youth, families and communities.

The dramatic decline in federal appropriations to support the goals and purposes of the JJDPAs raises questions about whether states have reached or will reach a “breaking point” in terms of effective implementation of their compliance systems.



In the CJJ survey, nearly 70 percent of respondents stated that cuts in the JJDPAs Title II program pose challenges to their efforts to maintain a positive compliance status. Respondents reported that with less federal funding available, they are forced to commit the majority of their funding to compliance monitoring. As a result, in some cases they are unable to consistently invest in proven approaches that directly or indirectly support compliance, such as alternatives to secure detention, delinquency

prevention programs that prevent youth from coming into contact with the system in the first instance and evidenced-based treatment to prevent youth from continued or repeated system involvement.

When asked what they would recommend to the President, Congress and the OJJDP Administrator, the overwhelming majority of survey respondents stated that they would recommend increased federal funding for the JJDP.

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2. States Need Clear, Consistent and Field-Informed Guidance from OJJDP Regarding Compliance Obligations

Under the JJDP, OJJDP is charged with monitoring states' compliance activities and taking action, including adverse action, when those activities fail to meet federal standards and produce desired results. For example, if a state is found to be out of compliance with one or more of the core requirements, the OJJDP Administrator is authorized to withhold 20 percent of the state's allocation for each core requirement with which the state is found out of compliance, and to require that the state use 50 percent of its remaining allocation to come back into compliance.³⁵

Consequently, it is critical that there be an effective communication and feedback loop between OJJDP and the states. OJJDP must provide clear and consistent direction to the states regarding their statutory and regulatory obligations. In turn, it is critical that these obligations be informed by states' honest and real-time assessment of challenges, opportunities and best practices. The survey results, however, reveal that this critical communication and feedback loop is not operating at an optimal level.

For instance, 52 percent of survey respondents rated the overall quality of the communication OJJDP has with states to explain changes to compliance mandates and other requirements of the JJDP as "5" or lower on a 10 point scale, where "1" was the lowest quality and "10" was the highest quality. One respondent remarked that there is "[v]ery little communication and the communication is often inconsistent with what someone else at OJJDP has told us or even inconsistent with what the same person told us a couple of months earlier."

The lack of clarity and consistency in communications is based in part on the fact that OJJDP has yet to fully institutionalize the 2002 JJDP

reauthorization. The OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002 (“the Compliance Manual”), the most relied upon compliance tool as reported by 61 percent of respondents, has been updated twice since 2002. As of the writing of this report, however, OJJDP has yet to publish formal federal regulations to implement the 2002 reauthorization of the JJDPA. The last full review and update of JJDPA regulations took place in 1996.³⁶

In addition, under the JJDPA the OJJDP Administrator is directed to seek consultation from the states when establishing rules, regulations and procedures that affect the federal-state partnership and implicate compliance with the JJDPA’s requirements.³⁷ In the absence of formal regulations, however, OJJDP has attempted to set and enforce compliance standards without state consultation, which has further contributed to confused communications. One example from 2003 was a policy that contradicted best practices and threatened to needlessly throw more than a dozen states out of compliance with the JJDPA Jail Removal core requirement. (See next page.) In light of this example and survey findings, OJJDP should promulgate new or revised rules and regulations as soon as possible. In doing so, OJJDP should engage in a formal rulemaking process and adhere to the mandates of the JJDPA to seek consultation from the states when establishing new policies, particularly when those policies may affect states’ compliance with the JJDPA.

3. States Need Increased Compliance Support from OJJDP

In addition to administering the federal funds authorized under the JJDPA, OJJDP is mandated to support states’ compliance efforts. Such required support includes conducting and reporting on compliance audits to measure states’ progress, and providing training and technical assistance to help states identify and address compliance challenges and opportunities.³⁸ The survey reveals that OJJDP can improve its responsiveness in both areas.

In the CJJ survey, OJJDP communication to the states regarding compliance audits was found to be lacking. Survey respondents reported that on average it took 171 days, or nearly 6 months, for them to receive the written results of their last compliance audit from OJJDP. One state reported that it once took 850 days for it to receive its written results from OJJDP. In addition, eight states reported that it took OJJDP more than a month to respond to a question about an audit, and four states reported that they

The Value of Formal Field-Informed Rules and Regulations

An example that highlights the value of a formal rulemaking process informed by the states is OJJDP's 2003 attempt to implement a new rule based on its interpretation of the definition of "adult inmate" as it relates to the Sight and Sound Separation core requirement.

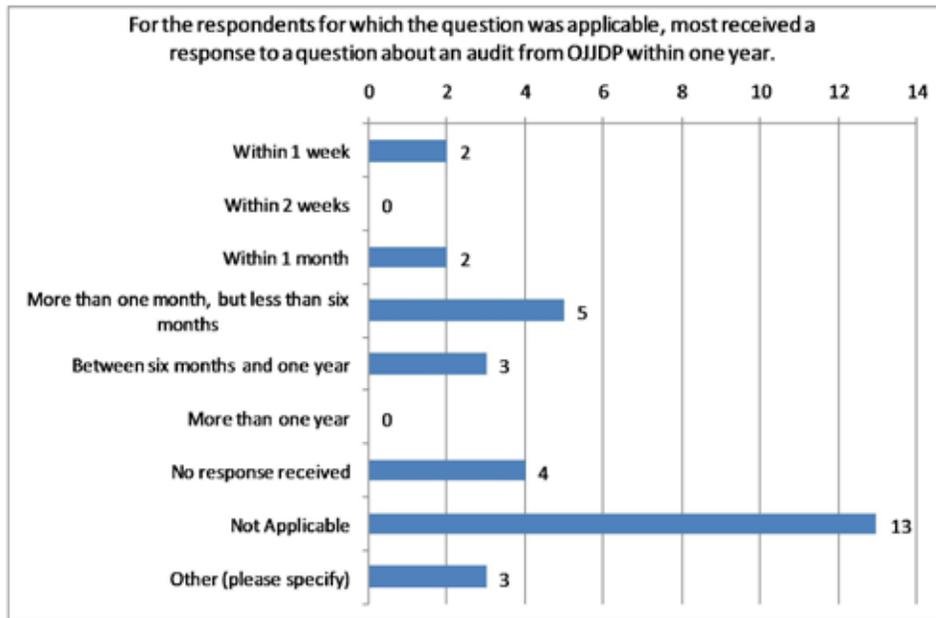
During the 2002 reauthorization, congressional legislators added a new definition to the JJDPA, defining an "adult inmate" as an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested or is convicted of a criminal offense in adult criminal court. This new definition implicated the Separation core requirement, which prohibits states from detaining or confining juveniles in any institution in which they have sustained contact with adult inmates.

About half the states allow for "blended jurisdiction." Therefore, the courts have the authority to commit a youth convicted in adult criminal court while under the age of majority to a juvenile facility until such time that the youth reaches the maximum age of that state's juvenile jurisdiction. In most states the maximum juvenile age is 20, but in three states it is 24. The justification is, and the research affirms, that these youth will be safer and benefit from the services provided by the state's juvenile justice system. For decades, therefore, these youth were not considered to be adult inmates and states that exercise blended jurisdiction were not deemed out of compliance with the Separation core requirement.

In 2003, however, OJJDP issued a memorandum to the states "clarifying its guidance on the separation issue" based on the new adult inmate definition. According to OJJDP's reading of the statute, youth convicted as adults in criminal court, including youth under the age of majority at the time of the offense, were "adult inmates" under the JJDPA. The memo went on to mandate that within two years all states must remove youth convicted in criminal court from their juvenile populations within six months of the youth reaching the state's age of full criminal responsibility (which in some states is as young as 16) or risk being found out of compliance with the Separation core requirement. For many states, the only way this could be accomplished was to transfer these youth to adult correctional facilities, where they would be subject to increased risk of physical, mental and emotional injury.

Suddenly, states that had consistently maintained compliance with the JJDPA, including states highly regarded for their DMC reduction efforts and states hailed as national models for juvenile correctional reform, found themselves facing sanctions if they failed to remove these youth from juvenile facilities. This strict reading of the adult inmate definition and the Separation core requirement was developed internally by OJJDP without benefit of a notice-and-comment process, without seeking consultation from the states and without an analysis of state laws and policies that would be implicated.

In 2008, OJJDP was persuaded to reverse itself after five years of unrelenting education and advocacy efforts on the part of State Advisory Group leaders and states who fully understood the destructive impact this "rule" would have on the youth in their systems. The intervening five years of confusion, however, could have been avoided if OJJDP had proactively consulted with the states and solicited their input in the first instance.



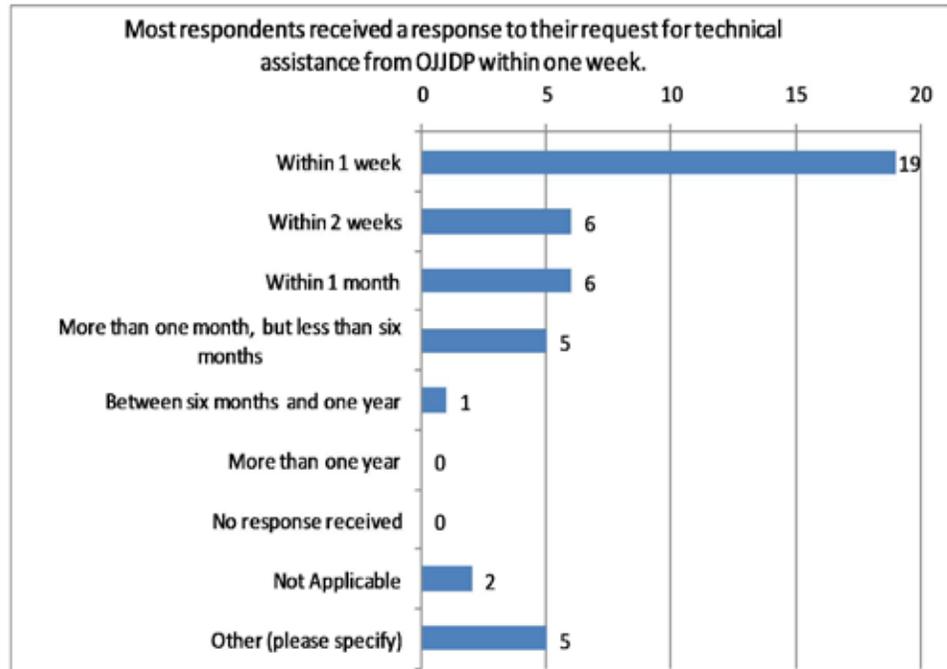
Question: In what time frame did OJJDP respond to your state's question regarding the most recent audit that was conducted in your state? (32 responses)

never received responses to their inquiries. It is difficult to determine from the survey responses whether these delays are a matter of lost capacity at OJJDP (due to decreased funding) or a customer service concern. Either way, such delayed communication hinders states from clearly identifying and remedying compliance issues in a timely manner, particularly before OJJDP deems it appropriate to take action and impose sanctions.

Similarly, there appears to be room for improvement in the compliance support function of the State Relations and Assistance Division (SRAD) so that it is more responsive to the states. When asked, approximately 38 percent of respondents rated the helpfulness of their SRAD representative as "5" or lower on a 10 point scale, with "1" being least helpful and "10" being most helpful. Approximately 33 percent of respondents rated the helpfulness of SRAD visits in assisting more specifically with compliance efforts as "5" or lower.

Survey results also indicate a need for OJJDP to improve its response time to states' requests for technical assistance. About 50 percent of respondents reported receiving a response to their request for technical assistance within one week, and one-fourth of respondents reported that it took more than one month for OJJDP to respond to their request. The survey did not ask respondents about the nature of their requests, i.e., whether the request could be satisfied by a phone call, an e-mail or in-person contact.

Nevertheless, it is clear that states rely on OJJDP to inform and support their compliance efforts, so it is imperative that OJJDP respond to requests in a timely manner.



Question: In what timeframe did OJJDP respond to your state's question or request for technical assistance regarding compliance in your state? (44 responses)

FINDINGS: SPECIFIC COMPLIANCE CONCERNS

Eighty-five percent of survey respondents self-reported that they are in compliance with all four JJDP core requirements as of their last (2007) compliance audit. (Based on data used to determine FY 2008 JJDP Title II Formula Grant allocations to the states, 90 percent of all JJDP states are in compliance with all four core requirements as of their 2007 compliance audit.) States' high rates of achieving and sustaining compliance, more than thirty-five years after its enactment, are the best evidence that the JJDP continues to fulfill its principal goals to divert status offenders from locked detention, keep juveniles separate from adult offenders in facilities and spur state and local efforts to reduce the disproportionately high contact of minority youth along all points of the juvenile justice system. States' high compliance rates are also further proof that the JJDP – and the federal-state partnership that supports it – is a worthwhile investment of public dollars.

Nonetheless, the survey revealed that a number of states find particular requirements of the JJDP to be especially challenging. For example, 38 percent of respondents rated the level of difficulty in maintaining compliance with the Jail Removal requirement as "6" or higher on a 10 point scale, with "1" being the least difficult and "10" being the most difficult. For the Separation requirement, the rate was 46 percent. These two requirements often intersect with one another, and can easily intersect with the Deinstitutionalization of Status Offenders (DSO) core requirement, e.g., securely detaining a status offender in an adult jail or lock-up can trigger three different compliance violations.

However, the two most challenging areas cited by states were maintaining compliance with the DSO and Disproportionate Minority Contact (DMC) core requirements. In addition, the survey revealed that unique challenges arise with JJDP compliance in states with Native American tribal communities and sovereign tribal nations within their borders.

While citing such challenges, respondents expressed a strong desire to comply with the JJDP core requirements and spoke to the need to strengthen both the requirements themselves and efforts to optimally safeguard system-involved children and youth. As explained in further detail above and below, states are eager to strengthen their efforts around JJDP compliance, and look to the federal government, national juvenile

justice organizations, private partners and each other for the support necessary to achieve and maintain compliance with these specific areas as successfully as in others.

Deinstitutionalization of Status Offenders (DSO)

In response to the CJJ survey administered in 2008, approximately 89 percent of respondents reported that their states were compliant with the DSO core requirement as of their last compliance audit. Yet, when asked, 44 percent of respondents cited the DSO core requirement, as compared to all the other requirements, as presenting the greatest challenge to maintaining compliance with the JJDP, and 49 percent of respondents ranked the level of difficulty in maintaining compliance with the DSO core requirement as “6” or higher on a 10 point scale, with “1” being the least difficult and “10” being the most difficult.

Barriers to DSO Compliance

DSO barriers, identified by survey respondents and detailed below, are not insurmountable. They, however, plainly highlight areas where states need additional resources to overcome barriers – including more federal funding, training and intensive technical assistance regarding best and promising practices – from Congress, OJJDP and other knowledgeable local, state and national partners.

Misuse of the Valid Court Order Exception

When first amended into the JJDP in 1980, the valid court order (VCO) exception to the DSO core requirement was intended to be just that: an exception. Under limited circumstances, judges would be permitted to order a status offender into locked detention if the youth had violated a direct order of the court, such as “don’t run away from home” or “stop skipping school” or “participate in this program.” Under the VCO exception, a youth can be held for only 48 hours without a court hearing, and within those 48 hours the court must conduct a hearing on the record to determine whether the youth did in fact violate an order and, if so, to determine an appropriate placement pending disposition of the case.³⁹ Results of the survey, however, indicate that some judges are using the VCO exception improperly by either holding youth beyond the allowable time frames or by issuing repeated detention orders to circumvent time limits. As a result,

youth charged with status offenses are increasingly being held in locked facilities.

This compliance barrier can be eliminated with leadership from Congress, OJJDP, SAGs and expert partners. As of the writing of this report, fourteen states have voluntarily eliminated the VCO exception in state statute, and as many as a dozen other states have the exception in their statutes but do not use it. These states demonstrate that systems can effectively address the needs of status-offending youth and keep them safe from harm without using secure detention.

In light of this evidence, in 2008, the CJJ Council of SAGs approved the following resolution to inform reauthorization of the JJDP:

- that the VCO exception to the DSO core requirement be phased-out over a three-year period when the JJDP is reauthorized;
- that federal JJDP appropriations be restored and increased to make community based detention alternatives for status-offending youth more accessible (as explained in greater detail below), particularly in rural/frontier jurisdictions; and
- that OJJDP be directed and properly resourced to provide states that currently use the VCO exception with intensive technical assistance to successfully make the transition away from the VCO exception within a three-year time frame.

By taking these and other actions advised by the SAGs in the CJJ Platform Position on Reauthorization of the JJDP,⁴⁰ Congress and OJJDP will not only eliminate this compliance barrier, but will also move states forward to fulfill the original intent of the JJDP and provide status-offending youth with the critical community based and family support services they need.

State Statutes in Conflict with the JJDP

More than half of survey respondents reported that state laws create barriers to achieving DSO compliance. For example, several states pointed to state laws, some recently enacted, that treat offenses considered status offenses under the JJDP, such as possession of alcohol or tobacco by a minor, as delinquent offenses. In such cases, judges are permitted to order these youth into locked detention without having to use the VCO exception, which in turn puts the state at odds with the DSO core requirement. In

Fourteen states have voluntarily eliminated the VCO exception in state statute... these states demonstrate that systems can effectively address the needs of status-offending youth and keep them safe from harm without using secure detention.

addition, several states cited laws that allow the locked detention of status offenders for longer than the time allowed in limited circumstances under the JJDPa without use of the VCO exception, which also puts the state out of compliance.

This is a place where the SAGs, OJJDP, CJJ and other knowledgeable partners can work together to support compliance across the states. As governor-appointees, SAG members often have the ear of their respective Governors and legislatures and, with the support of JJDPa state staff, are uniquely positioned to educate their Governors and legislatures regarding JJDPa requirements. SAG members can point to those laws and policies which endanger critical federal funding around juvenile justice reform. In addition, OJJDP and CJJ, in partnership with other experts, are each uniquely positioned to conduct an analysis of state laws that may implicate the core requirements, and highlight the ways in which states can align their laws and practices with the JJDPa.

Limited Alternatives to Detention

According to the survey, states rely heavily on non-secure detention alternatives and community based human service providers to divert status offenders from locked detention, provide them with needed services and achieve DSO compliance. Yet states frequently cited diminishing options for alternatives to detention. State governments are partly responsible for the decline: when asked, only 11 percent of survey respondents reported an increase in non-federal appropriations and resources for programs that support DSO compliance over the last five years. The other 89 percent reported that state appropriations and resources allocated to alternatives have decreased or stayed the same.

The lack of available community based alternatives to detention, however, is due in greater part to decreasing federal appropriations under the JJDPa that are used to develop and expand such alternatives. Between FY 2002 and FY 2009, funding for the JJDPa Title II program decreased by almost \$14 million nationwide.⁴¹ During that same period, funding for the JJDPa Title V program decreased by more than \$33 million nationwide.⁴² In most years, the decrease for the Title V program was further compounded when nearly all of the money appropriated was earmarked or set-aside for programs that do not provide for alternatives to detention.⁴³ Given that even the most ambitious alternative-to-detention programs cost only \$130 per day

(vs. an average cost of \$240 a day for locked detention),⁴⁴ between 2003 and 2009 states arguably lost the capacity to access as many as 369,000 days in prevention and non-secure alternatives for youth charged with status offenses, and instead spent public dollars on methods that are contrary to the goals of the JJDP.

All stakeholders can play a role in eliminating this compliance barrier. The President and Congress can do their part by *immediately* restoring JJDP program appropriations to at least FY 2002 levels. OJJDP can do its part, and ensure responsible use of public dollars, by proactively engaging, evaluating and disseminating information about alternative-to-detention programs, including community based youth and family treatment programs, proven effective at the state and local levels. As governor-appointedees chartered under a federal statute and mandated to coordinate, support and advise on the implementation of the JJDP, SAG members are well-positioned to rally federal, state and local decision-makers and resources in support of expanded community services and detention alternatives. Finally, CJ can continue to facilitate the exchange of best practices and the development of public-private partnerships between the SAGs and effective detention reform approaches, such as the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation.

Lack of training for intake staff, court staff and law enforcement

States reported that intake staff, court staff and law enforcement personnel are often unfamiliar with the mandates of the JJDP and, therefore, unaware or unconcerned with the impact their routine actions may have on their state's compliance status. For example, intake staff and law enforcement officers may not understand that holding a truant in a locked room or handcuffing a runaway to a stationary chair or desk or placing an underage drinker in a police holding cell until a parent or guardian arrives are all violations of the DSO core requirement (and may implicate the Jail Removal and Separation core requirements).

Between 2003 and 2009 states lost the capacity to access as many as 369,000 days in non-secure alternatives for youth charged with status offenses.

A key CJ initiative is the CJ-JDAI Peer Mentoring Program, which seeks to match SAG leaders who have done significant work to advance and implement JDAI in their home states with their peers among SAG members who wish to implement detention reform. The program builds on the work articulated in *State-Level Detention Reform: A Practice Guide for State Advisory Groups*, a CJ publication published with the support of the Casey Foundation's JDAI program. In support of the Peer Mentoring Program, in 2009 CJ also published a Best Practice Bulletin for states titled *Supporting Juvenile Detention Reform in JJDP State Three-Year Plans*, and conducted telephone seminars to disseminate the information to its members and other interested stakeholders.

Adequate training requires adequate resources, particularly in densely populated states or large rural/frontier states where a single staff person cannot provide training and continuing education for everyone who needs it. Therefore, federal funding must immediately be restored to at least FY 2002 levels to support adequate JJDP staff levels, including staff responsible for compliance monitoring and related training. In addition, OJJDP should use its access to resources and best practices to partner with SAGs and JJDP state staff to develop and implement training curricula geared to line staff at the state and local levels. SAGs can also play a role by ensuring that their state's JJDP Three-Year Plan explicitly addresses compliance successes and challenges, and articulates specific means to support the state's compliance staff.

Best Practices for DSO Compliance

In contrast to the barriers listed above, several states identified best practices that facilitate a sustainable level of DSO compliance. These best practices, which in most cases were pursued by the states without assistance from the federal government, highlight the value of peer support and networking among states, as well as opportunities for evaluation and information dissemination by OJJDP, CJJ and other knowledgeable partners.

Creative Use of Non-Federal Resources to Develop Alternatives to Detention

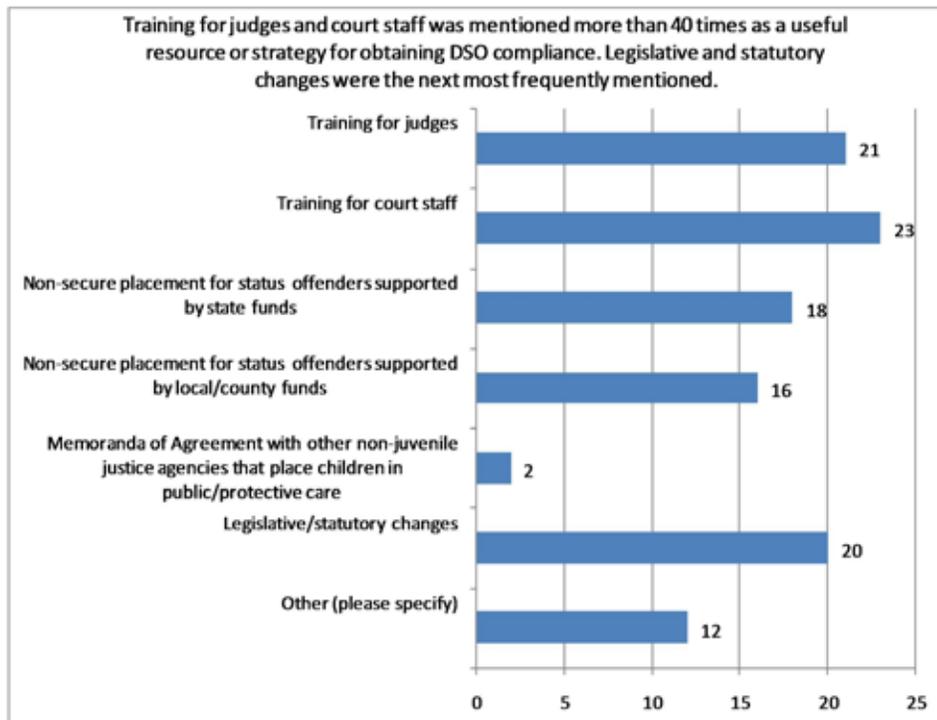
When Plato coined the phrase, "Necessity is the mother of invention," he must have had JJDP states in mind. Rather than sit idly by and let non-secure alternatives to detention and community services fade away with fading federal dollars, more than half the states moved forward to develop public-private partnerships at the state and local level to establish and expand alternatives to detention. The willingness and ability of states to leverage public dollars against private investment provides evidence of innovations and lessons learned, and points to the potential for even more effective use of public dollars once federal investments in juvenile justice are restored.

For example, 61 percent of survey respondents reported using the Annie E. Casey Foundation's JDAI program, which for more than a decade has reduced reliance on locked detention for youth charged with delinquent

offenses while enhancing public safety, racial equity and the well-being of youth and families. Other states reported that they combine a portion of their Title II funds with private dollars to access and provide non-secure interventions that are home-based or school-based and shown to be effective with juvenile justice populations, such as Multisystemic Therapy, after-school programs and mentoring. As the federal office charged with identifying and helping states replicate best practices in delinquency prevention and juvenile justice, OJJDP should ensure that Congress is aware of such proven practices and prioritize the replication of these practices across all 56 states and territories.

Training for Judges, Court Staff and Law Enforcement Personnel

Several states have taken a proactive approach to training judges, court staff and law enforcement personnel. In fact, when asked, states mentioned training for judges and court staff more than 40 times as a useful resource or strategy for attaining DSO compliance. Some states have developed training curricula that target these stakeholder groups, while other states conduct JJDP compliance training at the local level.



Question: What resources or strategies does your state use to achieve DSO compliance? Please select all that apply. (41 responses)

The President and Congress can support and expand upon this compliance best practice by restoring federal funding to JJDPA programs. In addition, OJJDP can use its position and national reach to partner with SAGs and JJDPA state staff to further develop and implement effective JJDPA compliance training curricula. Given that OJJDP regularly conducts mandatory training for JJDPA state staff around the four core requirements, OJJDP should consider organizing regional conferences or other educational forums to expand compliance training beyond JJDPA state staff to judges, court staff and law enforcement personnel.

State Statutes that Support the Mandates of the JJDPA

Nearly two-thirds of respondents reported that there are laws within their states that facilitate compliance with the DSO core requirement. One state cited a statute that strictly prohibits holding status offenders in locked settings and instead mandates that they be held in shelter care, a non-secure alternative that provides temporary protective placements to youth that have been abused and/or neglected, as well as dependent youth. Another state cited a statute that mandates that youth held in locked detention must receive a hearing within 24 hours. Other states cited statutes that prohibit children deemed as being “in need of services” (aka CINS or CHINS) or youth in protective custody from being held in locked settings.

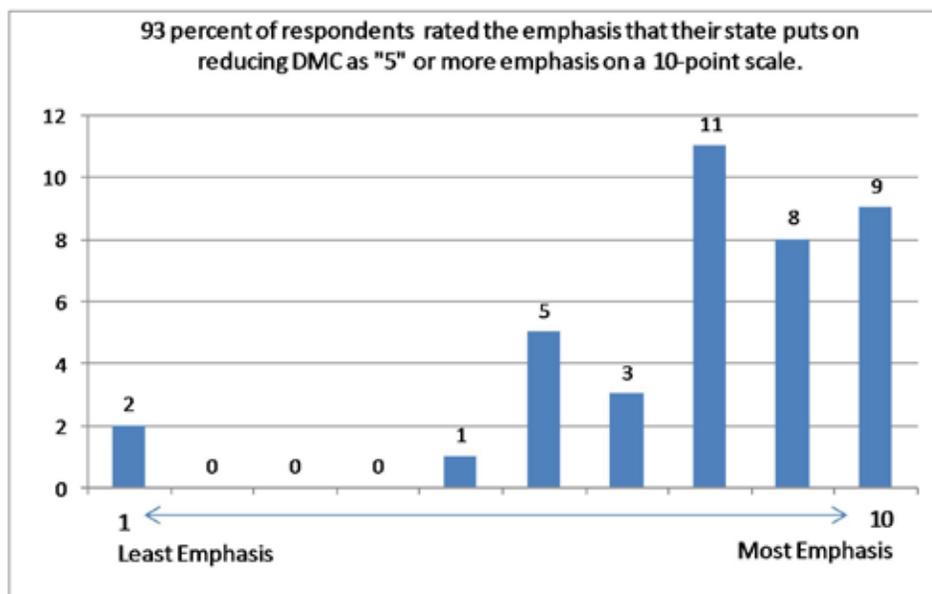
Disproportionate Minority Contact (DMC)

Measuring states’ compliance with the core requirements of the JJDPA is both labor- and time-intensive. It requires human and financial resources to visit and examine every facility within a state’s compliance monitoring universe to determine whether youth are being held in violation of the JJDPA. The standard of measure for the DSO, Jail Removal and Separation core requirements is fairly straightforward: count the number of youth held in violation of the JJDPA. Measuring compliance with the DMC core requirement, however, is more complex because the monitoring universe encompasses more than facilities and the indicators to be measured extend beyond youth in detention.

On the one hand, under current federal law states are mandated to “address” the disproportionately high number of minority youth who have contact with juvenile justice systems. On the other hand, states

are strictly prohibited from establishing numerical standards or quotas by which to measure progress in reducing DMC. In 2005, OJJDP and its partners developed a formula called the Relative Rate Index (RRI) to help states identify where and to what extent minority youth have contact with juvenile justice systems in disproportionately high numbers.⁴⁵ The RRI, however, does not tell states *why* youth are having disproportionate contact, or *how* to bring the numbers down. Therefore, being able to measure the rate of DMC with some degree of accuracy has become the default measure for determining whether a state is in compliance with the DMC core requirement. This being the case, the compliance rate for DMC is the highest of all the core requirements: almost 90 percent of states have been in compliance with the DMC requirement every year for the last five years.

States, however, are not satisfied with simply measuring RRI rates of DMC. When asked, 93 percent of respondents rated the emphasis that their state puts on reducing DMC compared to five years ago as “5” or more on a 10 point scale, and respondents reported that, on average, almost one-third of their Title II allocation is dedicated to DMC. This is strong evidence that states value the DMC core requirement and are eager to make more meaningful progress toward eliminating racial and ethnic disparities once they have been identified.



Question: How much of an emphasis does your state place on reducing DMC compared to 5 years ago? Please use the scale below to describe your response where 1 is the least emphasis and 10 is the most emphasis. (40 responses)

States also recognize that in terms of achieving measurable reductions in DMC, the guidance currently provided under the JJDP and by OJJDP is insufficient. Consequently, a majority of respondents cited overrepresentation and disparate treatment of children of color among the greatest challenges in their juvenile justice systems. Forty-eight percent of respondents specifically rated the level of difficulty in maintaining compliance with the DMC requirement as a “6” or higher on a 10 point scale.

Barriers to DMC Compliance

Respondents identified several factors that pose challenges to their states achieving meaningful and measurable reductions in DMC, including the need for more compliance guidance, funding, and training, as well as intensive technical assistance regarding best and promising practices.

Lack of Alternatives to Detention and Confinement

Similar to survey findings related to DSO compliance, states rely on alternatives to locked detention and confinement to divert minority youth away from pre-trial detention and post-adjudicative secure placements. For some of the same reasons cited in the DSO section of this report, states are left to achieve DMC compliance with limited options for non-secure placement alternatives, including family and community based services, and diversion programs.

Limited or non-existent detention alternatives present a significant barrier to DMC reduction for large rural/frontier states and states with Native American populations. According to survey respondents from these states, the technical assistance and research OJJDP provides to identify, assess and address DMC among urban minority populations is not sufficient for states serving rural/frontier minority populations. Moreover, states with large land areas (more travel time) and populations of six or less people per square mile (and accordingly a smaller tax base) find it more difficult to deliver and maintain family and community based services everywhere such services are needed. In addition, rural/frontier states with large Native American populations are held to the same performance standards for DMC as other states with other, less isolated minority populations and greater resources.

All JJDPA stakeholders must play a role to eliminate this DMC compliance barrier. The President and Congress must restore JJDPA program appropriations to at least FY 2002 levels, with an eye towards building capacity not only within the states, but within OJJDP as well, so that in collaboration with knowledgeable partners OJJDP can provide individualized technical assistance, with an emphasis on large rural/frontier states with Native American populations. For its part, OJJDP should continue to proactively engage, evaluate and disseminate information about alternative-to-detention programs that are proving effective at the state and local levels, including those programs that are specifically designed for or can be adapted to serve various minority populations in diverse geographic settings. Finally, SAGs should continue to rally federal, state and local decision-makers and resources in support of detention reform and community based alternatives.

Lack of Training for Law Enforcement Personnel

States repeatedly cited a lack of training for and meaningful engagement with law enforcement personnel as barriers to achieving measurable and sustainable reductions in DMC. States are keenly aware that for the overwhelming majority of youth, law enforcement is their first contact with the juvenile justice system. At the same time, SAGs and JJDPA state staff charged with implementing the JJDPA hold limited influence over how local law enforcement authorities approach DMC. As one respondent put it, “Law enforcement is usually the first to have contact with the youth and they are the hardest to train in reducing DMC. Law enforcement does not usually receive money from us so there is no hammer to hold over them. They have to really want to change things to buy into the DMC reduction plan.”

“Law enforcement is usually the first to have contact with the youth and they are the hardest to train in reducing DMC.”

Two points must be made here. First, when it comes to influencing local law enforcement, SAGs should not sell themselves short. Pursuant to JJDPA requirements, most SAGs have among their memberships one or more active or retired law enforcement officials.⁴⁶ SAGs, therefore, are well-positioned to encourage, educate and support law enforcement members to advance DMC reduction efforts with their colleagues at the local and state levels. Second, this is a place where OJJDP can use its position within the Justice Department to partner with and educate other federal offices and agencies that directly fund and influence state and local law enforcement practices, including the Office of Community Oriented Policing Services

and the Bureau of Justice Assistance, both of which provide training and technical assistance to local enforcement.

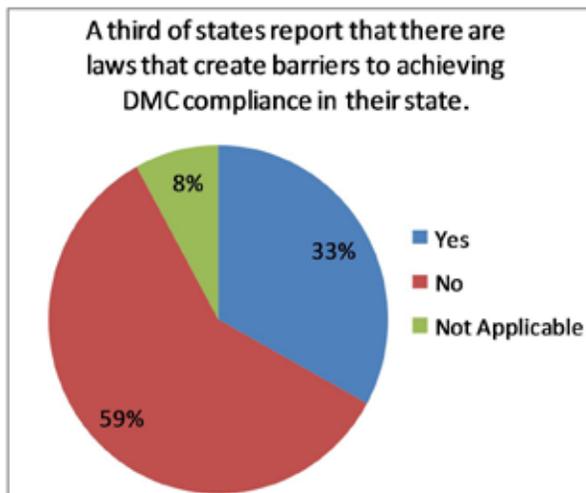
Lack of Data

The RRI is the first step in the DMC reduction process, designed to help states identify where and to what extent minority youth are having contact with their juvenile justice systems at disproportionately high rates. As a measuring tool, however, the RRI is only as successful as the data that is fed into it. Here, several states repeatedly cited lack of available data as a barrier to reducing DMC. For instance, some respondents reported that data on race and ethnicity are currently not collected statewide. Other states reported that not all relevant agencies are mandated to collect information at the same data points on race and ethnicity, which makes data-sharing across agencies difficult. Still others reported a lingering resistance on the part of state or local jurisdictions to collect data on race and ethnicity, or a continuing tendency to lump ethnic populations, such as Latino and Hispanic youth, into “white” or “black” data cohorts.

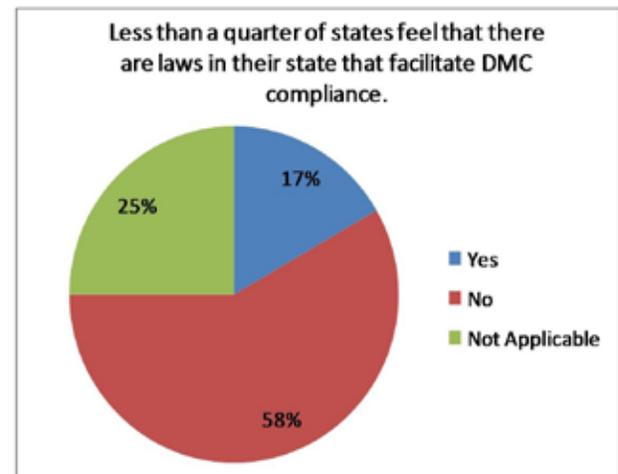
The absence of accurate data on race and ethnicity may partly be a matter of political will. State and local policymakers – including the Governor, the legislators, law enforcement and members of the judiciary – must value and prioritize the comprehensive and accurate collection of racial and ethnic data along the juvenile justice continuum and across youth-serving agencies. Building and integrating computer systems across various agencies, disciplines and jurisdictions, however, is also an infrastructure issue, one that must be addressed with adequate federal investments which, when coupled with non-federal resources, will help states to develop/acquire, implement and sustain the necessary information technology.

State Statutes in Conflict with the JJDP

One-third of respondents cited state laws that they believe encourage the arrest, prosecution and incarceration of youth of color and thereby perpetuate DMC across the juvenile justice system continuum. Conversely, only 17 percent of respondents stated that there are laws in their state that help the state achieve compliance with the DMC core requirement.



Question: In your view, are there laws in your state that create barriers to achieving DMC compliance? (39 responses)



Question: In your view, are there laws in your state that facilitate DMC compliance? (36 responses)

Several states cited zero tolerance laws in school settings that disproportionately impact minority youth, increase the number of school referrals to law enforcement for minority youth and drive more minority youth into the juvenile justice system. Other examples of laws and policies that pose a barrier to DMC compliance included anti-gang laws that target non-criminal activities in which minority youth may engage (i.e., curfew violations in a particular neighborhood), and drug laws, particularly those that designate areas around schools as drug-free zones and have a grossly disproportionate, negative impact on urban youth of color.

Best Practices for DMC Compliance

In contrast to the barriers listed above, some states identified best practices that facilitate their state achieving meaningful and measurable reductions in DMC. These best practices raise potential for peer support and networking among states, as well as evaluation and information dissemination by OJJDP and other knowledgeable partners.

Collaboration with the Community

For the overwhelming majority of youth, law enforcement is their first contact with the juvenile justice system. Several respondents reported that they are using their limited resources to proactively engage leaders within racial and ethnic minority communities at the local level. Respondents cite the goal of such engagement as reducing and mitigating youths' negative

contact with law enforcement by helping community stakeholders and law enforcement officials develop a mutual understanding of each other, including the cultural and social factors that may influence how youth view law enforcement and vice versa.

Development of Pilot and Demonstration Sites, Including with Non-Governmental Partners

Many states have established local pilot/demonstration sites and are using these sites to develop a comprehensive yet flexible DMC reduction model that can, after adequate evaluation, be taken to scale statewide. To make the most of this approach, states are leveraging their Title II funds to engage private, non-profit partners. The most frequent partner appears to be the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation, which operates in more than 100 jurisdictions spanning 21 states and the District of Columbia. Another prominent partner is the MacArthur Foundation's Models for Change DMC Action Network, which is targeting local sites in eight states to accelerate progress in the reduction of racial and ethnic disparities in the juvenile justice system. A third DMC reduction resource cited is the W. Haywood Burns Institute, which, to date, has worked in more than 30 jurisdictions nationwide with the goal of reducing racial and ethnic disparities at the state and local level.

A State Executive-Level Office or Body to Focus on DMC

Finally, states reported success in establishing a statewide focus on DMC reduction at the executive level. For example, one state reported the passage of legislation creating an office within its family services department to specifically address racial disproportionality within the agency. Another state reported the creation of a statewide commission to focus on DMC across all child-serving systems. Such offices, and their attendant mandates, have potential to serve as best practice examples.

As currently structured, the JJDPa may not have any significant impact on or relationship to tribal nations or tribal compliance with the core requirements.

Native American Tribal Communities and the JJDPa

As currently structured, the JJDPa may not have any significant impact on or relationship to tribal nations or tribal compliance with the core requirements. This presents a unique problem for states with Native American (American Indian, Alaska Native and other tribal) youth and/or sovereign tribal nations within their borders. As importantly, it presents a

problem for Native American tribes and populations that wish to pursue juvenile justice reforms within their communities, either in partnership with states or independently.

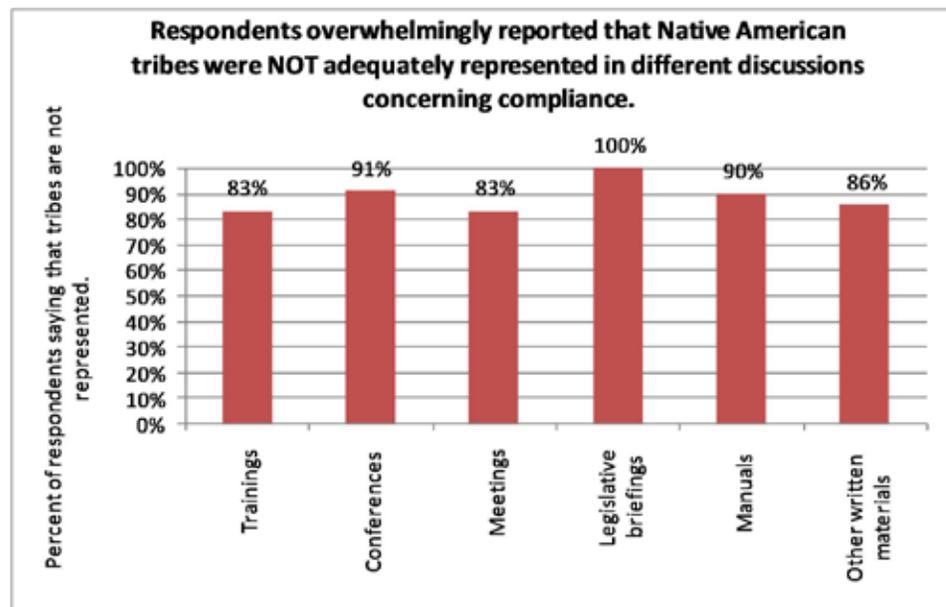
The problem begins with the policy-setting and decision-making structures articulated under the JJDP. For example, under the JJDP the Secretary of the Bureau of Indian Affairs is not a named member of the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention, and there is no requirement that any of the additional nine appointed members be a tribal or sovereign nation representative.⁴⁷ Similarly, tribal and/or sovereign nation representatives are not required members of the governor-appointed State Advisory Groups on Juvenile Justice.⁴⁸ While some states and SAGs voluntarily elicit the participation of tribal representatives and input of tribal nations and communities, SAG allocations are insufficient to cover travel and related expenses to ensure appropriate and effective representation from all tribal entities and jurisdictions, particularly in states with a significant number of federally-recognized tribes. It would be better for all involved if the expertise and interests of tribal nations and representatives were woven explicitly into the fabric of the JJDP.

Challenges for tribal participation in JJDP compliance are aggravated by the current funding scheme. The JJDP does not recognize or provide for direct funding of tribes as sovereign governments. Tribes are not considered “states,” and therefore are not entitled to a proportional or minimum allocation under the Title II State Formula Grants Program, the major program that sets out and provides support for achieving compliance with the core requirements of the JJDP.⁴⁹ Tribes may be considered “units of local government,” and therefore eligible to be sub-grantees of Title II grant funds, but only if they perform a law enforcement function.⁵⁰ This attenuated relationship is unproductive and harmful for all parties involved.

JJDP program funds are not the only federal juvenile justice funds available to tribal nations. The Tribal Youth Program, for instance, administered by OJJDP, provides resources to federally recognized tribes and Alaska Native villages to support tribal efforts to prevent and control delinquency and improve tribal juvenile justice systems for Native American youth. Unlike the Title II and Title V programs, however, which are allocated proportionally to every JJDP-participating state based on its youth population, the Tribal Youth Program is a competitive grant program. According to its Web site, in FY 2008 OJJDP awarded twenty-one tribes in eleven states grant awards between \$300,000 and \$500,000. Yet, there are more than 500 federally-recognized tribes spanning thirty-three states. In addition, some funds for the Tribal Youth Program are earmarked/set-aside out of the Title V Program of the JJDP. This funding scheme does not provide any level of consistency for the tribes, and sets up an unproductive competition between state and tribal delinquency prevention efforts. Moreover, the Tribal Youth Program is not keyed to the goals and objectives of the JJDP, creating a missed opportunity to achieve synergy between states’ JJDP Three-Year Plans and tribal juvenile justice reform efforts.

As a condition of receiving funding under the Title II program, the tribes must agree to allow states to monitor their compliance with the JJDP. Yet, the amounts passed through to the tribes from the states are wholly inadequate; in one state, as little as \$7,000 goes to several tribes. As a result, tribal communities rarely receive federal funding keyed to the goals of the JJDP for community and family services, and consequently lack the infrastructure and staffing that would help them achieve compliance with the core requirements.

Finally, there does not appear to be any clear understanding at the federal or state level regarding how the core requirements of the JJDP interface with tribal nations and their statutes. Just as state laws may conflict with the JJDP, the laws of sovereign tribal nations may conflict with state laws. There is very little data-sharing between state and tribal jurisdictions, partly due to tribal concerns about how the information may be used. Furthermore, states do not have the same access to tribal communities as they do to other local jurisdictions, which presents a problem for effective coordination of services and compliance monitoring. In summary, survey respondents with tribes and tribal youth within their borders observed that tribal communities are not adequately represented in any JJDP efforts, including compliance.



Question: Would you say that Native American tribal reservations, individual tribes, and clans are adequately represented in the following types of discussions concerning compliance with the JJDP? (12 responses)

The good news is that states see the value of working with tribal communities to achieve JJDPa compliance and improve outcomes for Native American youth and their communities. Of the fourteen states that reported that they work with tribal youth populations and tribal communities to achieve compliance with the JJDPa, half rated the level of collaboration between the state and tribes as “6” or better on a 10 point scale, with “1” being “No Collaboration” and “10” being “Most Collaboration.”

These states, however, are looking for help and necessary resources. When asked, states most frequently cited training about the JJDPa and its applicability to tribal youth populations as a resource they would like to have to help facilitate collaboration with tribal communities. States also highlighted the need for OJJDP to develop a guidance manual for JJDPa state staff, and a judicial reference manual that would help tribal courts understand how the JJDPa may apply to tribal youth.

In 2000, CJJ convened more than 300 Native American youth, adults and tribal elders, as well as community leaders, child advocates, service providers and law enforcement officials, for a three-day conference in Phoenix, Arizona. The purpose of the conference was to learn about effective strategies to help Native American youth avoid contact with the juvenile justice system and increase services close to home and at home for youth and their families. The conference produced a report that included 22 recommendations to various stakeholders.⁵¹ Chief among the recommendations were recommendations that Congress, the U.S. Department of Justice and the SAGs (1) increase funding for tribes and (2) improve communication with tribal leaders to better learn how to serve tribal youth. Almost ten years later, it is time to revisit these recommendations and determine how they can best be implemented legislatively, administratively and programmatically at the federal, state and tribal levels.

CONCLUSION AND RECOMMENDATIONS

The JJDPA is by all measures a successful standard-setting statute that has inspired improvements in juvenile justice administration and contributed significantly to reductions in juvenile delinquency nationwide. Thirty-five years after its enactment, states remain committed to the goals of the JJDPA, and have learned how to leverage the JJDPA's core requirements and resources to drive innovations as well as best and promising policies and practices at the state and local level.

Yet, as revealed by the CJJ survey administered in the summer of 2008, the federal-state partnership that underlies the ongoing success and effectiveness of the JJDPA is at a pivotal point. Without immediately restored and increased supports from the President, Congress and OJJDP, the states, despite their best efforts, will find it increasingly difficult to stay the course and to sustain compliance with the JJDPA. This is especially true in the current climate of economic uncertainty and shrinking state and local budgets. Modest, strategic investments of federal resources, coupled with the professional and voluntary expertise of state staff and State Advisory Group members, create a multiplied effect, giving each dollar invested in delinquency prevention and early, effective intervention a compounded impact.

All JJDPA stakeholders must seize this pivotal moment to sustain the success and enhance the future of the JJDPA. As a new federal Administration takes shape, and as Congress prepares to reauthorize the JJDPA, we respectfully submit the following recommendations to the President, Congress, the OJJDP Administrator, SAG members and the JJDPA state staff charged with implementing the JJDPA. In addition, we highlight areas where CJJ, as the national representative organization of the SAGs, can further engage stakeholders and use its expertise to support state compliance efforts. Our hope is that the wisdom and ideas advanced herein will provide direction and inspiration for all stakeholders regarding strategies we can employ collaboratively to build on successes and confront emerging challenges.

To the President and the Congress of the United States:

- 1. Reauthorize a strong and forward-looking Juvenile Justice and Delinquency Prevention Act (JJDPA) that builds on the growth of knowledge and innovation in juvenile justice, strengthens the federal-state partnership and provides additional compliance supports to the states.**

The current JJDPA expired September 30, 2007, and is overdue to be reauthorized in the 111th Congress. The pending reauthorization of the JJDPA presents an excellent opportunity to incorporate states' compliance successes and more adequately address states' compliance needs. As supported by this report, the President and Congress should pass and sign into law JJDPA reauthorization legislation that:

- Phases out use of the valid court order (VCO) exception to the DSO core requirement and prohibits locked confinement of non-delinquent youth so that youth charged with status offenses are diverted into community based and, whenever possible, family-connected detention alternatives that effectively address their needs;
- Strengthens the DMC core requirement to move states beyond problem-identification and towards fulfilling measurable goals in DMC reduction and elimination of racial and ethnic disparities at all points in the system through increased collaboration and accurate data collection and analysis;
- Affirms the advisory role of the states, via the SAGs, regarding OJJDP's promulgation of rules, regulations and policies that implicate compliance; and
- Encourages and supports juvenile justice reform in tribal communities, tribal courts and in tribal youth populations by supporting frameworks for collaborative efforts, participation in policy-setting and decision-making bodies and direct funding to tribal communities.

For a more complete set of recommendations, we urge the President and Congress to review the CJJ Platform Position on Reauthorization of the JJDPA, available at http://www.juvjustice.org/reauthorization_platform.html, which contains thirteen positions addressing federal supports and resources needed to fulfill the spirit and intent of the JJDPA, including safeguards for youth, families and communities and the central value of prevention. The Platform was developed and approved by a two-thirds majority of SAG Chairs/Chair-designees present and voting during CJJ's 2008 Annual Member Meeting.

2. Restore, increase and preserve core federal funding to the states under the JJDPA to maintain reductions in juvenile delinquency and strategically leverage the cost-effective use of public dollars to promote youth success and community safety.

Since FY 2002, federal investments in juvenile justice reform under the JJDPA have decreased dramatically, and OJJDP itself has lost the funding necessary to carry out its oversight, research, evaluation, training, technical assistance and grants administration duties under Part A of the JJDPA. States cannot maintain compliance with the JJDPA, and OJJDP cannot support them in their efforts, without adequate investments and a visible commitment by the federal government.

The President and Congress should *immediately* restore federal investments in juvenile justice programs to *at least* FY 2002 levels, and build a growth model for increased authorizations into the JJDPA, limiting or eliminating set-asides/earmarks of JJDPA funds essential to fulfilling the core purposes of the Act. Congress should also appropriate federal dollars for use by tribal nations to support juvenile justice reform and delinquency prevention among tribal youth in coordination with states, in a manner that makes the most of JJDPA goals and that does not compete with funding to the states.

3. Appoint and confirm a visionary and proven leader with deep juvenile justice experience as Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

Based on the compliance challenges and successes revealed by the CJJ survey and articulated in this report, the President should appoint, and Congress should confirm, as OJJDP Administrator someone who believes in the value and effectiveness of working in partnership with the states and the SAGs, and who will seek to maximize the impact of the federal role in juvenile justice and delinquency prevention. In brief, the next OJJDP Administrator should possess all of the following qualifications and characteristics:

- A commitment to prevention and fair, effective interventions;
- First-hand knowledge of juvenile justice best practice;
- A commitment to serving as a strong champion for OJJDP and federal investments that support compliance and juvenile justice reform;
- A willingness to be transparent and to embrace and support the statutory advisory functions of the State Advisory Groups on Juvenile Justice;
- A desire and ability to foster cross-disciplinary and interagency collaborations; and
- Proven management and leadership skills to increase and maintain OJJDP's capacity to provide the necessary training, technical assistance, research, evaluation and oversight needed to support the states.

4. Direct OJJDP, and provide meaningful resources to OJJDP and the states, to develop and implement a national, research-informed strategy to reduce the disproportionately high contact that minority youth have with state and local juvenile justice systems.

States are eager to achieve meaningful reductions in the disproportionately high contact rates that minority youth have along all points of the juvenile justice system. States, however, require leadership and assistance from the federal level, particularly in the area of developing and sustaining the accurate data collection and analysis systems critical to understanding and reducing racial and ethnic disparities. To this end:

- The President should direct OJJDP to develop and advance a national DMC reduction strategy in partnership with the states that is informed by the successes and lessons learned from programs like the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative and the Models for Change initiative of the MacArthur Foundation;
- Congress should appropriate federal funds specifically dedicated to help states develop/acquire, implement and sustain the information technology necessary to integrate racial and ethnic data collection and analysis systems across various state and local agencies, disciplines and jurisdictions; and
- OJJDP should stay out in front of emergent and urgent issues related to minority contact,

including developing new and improved ways of addressing DMC reduction in rural/frontier jurisdictions and jurisdictions with large or majority ethnic populations, e.g., tribal nations and the U.S. territories.

To the Office of Juvenile Justice and Delinquency Prevention:

5. Improve the timeliness and clarity of OJJDP’s communications with the states, particularly around compliance mandates and expectations.

Based on the survey results that indicated a need to improve the timeliness and clarity of communications from OJJDP to the states, the OJJDP Administrator should:

- Prioritize the promulgation of JJDPA regulations and quickly update the Compliance Manual and other guidance documents to reflect these changes;
- Ensure that all SRAD representatives are fully equipped to effectively and consistently communicate compliance mandates and expectations to the states; and
- Work with SRAD representatives to ensure that states receive the written results of their compliance audits in 60 days or less.

6. Prioritize OJJDP’s training and technical assistance functions, particularly around DSO and DMC compliance.

In that states place a premium on the training and technical assistance they receive from OJJDP, the OJJDP Administrator should focus on rebuilding and strengthening the Office’s capacity to provide training and technical assistance. To accomplish this, the Administrator should implement a system whereby OJJDP acknowledges and begins responding to requests for technical assistance within one week or less. OJJDP can achieve this through increased staff capacity or by supporting external organizations familiar to the states that understand states’ needs and have the capacity and expertise to fulfill the necessary training and technical assistance functions as mandated by the JJDPA.

Furthermore, based on the results of the CJJ survey, OJJDP’s training and technical assistance capacity should emphasize:

- DSO compliance by
 - o working with the states to align state law with federal law;
 - o providing training for judges, intake staff and law enforcement personnel; and
 - o identifying, evaluating and disseminating information regarding best practices in detention alternatives for youth charged with status offenses.
- DMC reduction through

- o support to the states to develop and implement data collection, sharing and analysis systems to identify the type, frequency and characteristics of DMC contacts along the juvenile justice continuum;
- o evaluation and dissemination of best practices proven to reduce DMC; and
- o partnerships with states and other relevant federal agencies to focus on training for law enforcement personnel and reform of law enforcement practices that may contribute to DMC.

More so than with any other core requirement, states overwhelmingly—at a rate of 90 percent or better—find additional training and technical assistance on DMC compliance to be helpful. Specifically, states most often cited conferences and the DMC Technical Assistance Manual to be the OJJDP tool or resource that they use to achieve DMC compliance. When asked to identify the strategy that they most often use to reduce DMC, states most often cited data collection and data analysis.

7. Increase federal coordination and support state collaboration with tribal nations and populations to better identify and address the unmet needs of tribal youth and tribal communities.

Where applicable, states are eager to work with tribal communities to achieve JJDP compliance and improve outcomes for tribal youth and their families. These states, however, have also identified areas where they need additional help and resources. To ensure that tribal communities are adequately represented in JJDP efforts, OJJDP should:

- Provide training and technical assistance to the states to facilitate collaboration with tribal nations; and
- Partner with the Bureau of Indian Affairs to direct technical assistance to tribal communities to help them develop tribal-based infrastructure and non-secure alternatives.

8. Analyze areas where state and local policies, including laws, codes and administrative procedures, run counter to JJDP requirements and purposes, and highlight ways in which states can modify those policies to conform with the JJDP.

When speaking specifically to DSO and DMC compliance, more than half of survey respondents reported that there are state laws and policies that create barriers to compliance. To assist the states, OJJDP should:

- Conduct a nationwide survey and analysis of such policies for the purposes of highlighting the barriers and best practices;
- Help SAGs educate their Governors and state legislatures about such barriers and best practices; and

- Demonstrate how and why states should modify those barriers and adopt best practices to comply with the JJDPA and produce better outcomes for youth, families and communities.

To the State Advisory Groups and JJDPA state staff:

- 9. Increase expertise and maximize opportunities to educate key decision-makers about what the JJDPA requires and how the JJDPA benefits community safety, as well as youth and family success in your state.**

More so than any other stakeholder group under the JJDPA, SAGs are in the best position to influence their state's progress on juvenile justice. As required participants under the JJDPA, SAG members have access to the President, Congress and the OJJDP Administrator. As governor-appointedees, SAGs also have access to the chief executive and legislative body in their respective states. As professionals, practitioners, policy experts, community leaders and youth, SAG members can speak with authority about what works and what does not work. It is incumbent upon SAGs to work with JJDPA state staff to ensure that each SAG member is fully informed about the JJDPA requirements and their state's particular compliance challenges and successes. By doing so, SAG members will be equipped to maximize their position and access, and move others in the state toward effective juvenile justice reform.

- 10. Fully support and make strategic use of your state's compliance monitoring system, including compliance monitoring staff and compliance reports and audits, to identify compliance barriers, highlight compliance successes and inform the State Three-Year Plan under the JJDPA.**

As the body of governor-appointedees chartered under the JJDPA, SAGs are mandated to "participate in the development and review of the state's juvenile justice plan," and "submit to the chief executive officer and legislature of the State at least annually recommendations regarding State compliance with the [core] requirements."⁵² With this in mind, each SAG member should capitalize on his/her role under the JJDPA by mastering and fully understanding their state's compliance monitoring system to:

- Ensure that the State Three-Year Plan reflects the compliance successes and challenges identified in the state's compliance reports and audits;
- Articulate and advocate for adequate supports for the state's compliance monitoring staff; and
- Cite remedies, reforms or changes to support state compliance.

11. Work closely with your governor/chief executive, state legislature (and county officials as appropriate) to align state law and policy with the mandates of the JJDP.

To the extent a state has identified laws and policies that pose barriers to state compliance with the JJDP, the SAG and JJDP state staff should proactively engage their chief executive and legislature to ensure that they understand the problems and work with them to amend state statute so that it is aligned with the mandates of the JJDP. Similarly, where a state law, policy or practice facilitates compliance, SAGs and JJDP state staff should affirmatively direct the attention of their chief executive and legislature to that law, hold it up as a best practice and encourage their chief executive and legislature to promulgate similar laws and policies.

12. Advocate for the development and implementation of a comprehensive, state-wide data collection and analysis system to better inform and support DMC reduction efforts.

Use of the Relative Rate Index (RRI) to identify DMC along the juvenile justice continuum is only as good as the underlying data. To maximize state DMC reduction efforts, SAGs should use their access to chief executives and state legislatures to call for and highlight the importance of the development or acquisition of information technology to integrate state and local computer systems and increase comprehensive and accurate collection of racial and ethnic data at key points along the juvenile justice continuum and across youth-serving agencies.

13. Continue to leverage federal funding to increase community based alternatives to detention and incarceration, and further develop relationships with non-federal partners to support the same.

In the face of decreased appropriations to federal juvenile justice programs, states have made creative use of non-federal resources to support community based detention and incarceration alternatives. To that end, SAGs should maintain and, where possible, strengthen efforts to leverage federal dollars against state, local and private resources to increase community based alternatives to detention and incarceration. In addition, states should take advantage of every opportunity to tout the beneficial impact that community based alternatives have on youth and community safety to their elected officials and to the public. Finally, states should be more assertive about developing partnerships with non-federal public and private actors to increase the emphasis on, and capacity of, detention alternatives.

14. Where applicable, make strategic use of all available resources to develop and sustain relationships with tribal nations.

In the absence of additional federal funding, states should take steps to improve collaboration

with tribal nations, including actively recruiting Native American youth and leaders into the SAG, into discussions for development of state JJDPA plans and into provision of prevention and intervention services. In addition, given the work it has done on this issue in the past, states with tribal nations within their borders should reach out to CJJ and other organizations that can offer expertise and support to revive and expand the conversation around effective delinquency prevention and juvenile justice practices for tribal nations, and tribal youth more generally.

To the Coalition for Juvenile Justice:

- 15. As the national representative organization of JJDPA State Advisory Groups (SAGs), inform the appointment of a new OJJDP Administrator and, where possible, facilitate an effective and transparent working relationship between the SAGs and OJJDP.**

The JJDPA explicitly provides that the SAGs, via a national representative organization, perform a number of critical functions, including but not limited to: (1) reviewing federal juvenile justice and delinquency prevention policies; (2) advising the OJJDP Administrator with respect to particular functions or aspects of the work of OJJDP; (3) advising the OJJDP Administrator with respect to rules, regulations and procedures that affect OJJDP and the requirements of the JJDPA; and (4) providing training and technical assistance and dissemination of best practice information. As the national representative organization of SAGs since 1984, CJJ should draw on the deep well of membership expertise and experience to proactively:

- inform the appointment of the next OJJDP Administrator;
- help ensure qualified leadership within OJJDP; and
- develop an effective and mutually respectful working relationship between OJJDP and those charged with carrying out the mandates of the JJDPA at the state level.

- 16. Continue to work with the SAGs, JJDPA state staff, like-minded allies and the Congress to inform a strong and forward-looking reauthorization of the JJDPA.**

The SAGs, established under the JJDPA and appointed by the governors/chief executives in each U.S. jurisdiction, are principally responsible for monitoring and supporting their states' progress toward meeting, if not exceeding, compliance with the federal core requirements of the JJDPA and making optimal use of JJDPA program funds. Therefore the SAGs, and the state staff that implement the JJDPA, are in the best position to assess what's working and what needs to be improved upon in the JJDPA. As the national representative organization of SAGs, CJJ should amplify the voice of the SAGs to inform a reauthorized JJDPA that is responsive to and reflective of states' successes and continuing challenges.

17. Continue to work with the SAGs, JJDPa state staff and like-minded allies to restore and increase congressional appropriations to the states under the JJDPa.

Congressional appropriations for juvenile justice programs have long been a priority of CJJ's Government Relations program. CJJ should continue its educational efforts to:

- Focus the President and Congress on the damage done and opportunities lost in delinquency prevention and youth/community safety because of decreased federal appropriations for the JJDPa and related programs;
- Make the case for restored and increased federal funding under the JJDPa, including the articulation of authorization levels in the JJDPa;
- Call for any state found out of compliance, but making a documented, good-faith effort to restore compliance with the JJDPa, to receive an "improvement grant" and intensive technical assistance from OJJDP, contingent on a formal agreement with the Administrator; and
- Speak to and amplify the critical importance of adequate funding for OJJDP.

18. Work with the SAGs, JJDPa state staff and like-minded allies to develop, amplify and disseminate evidence regarding the cost-effectiveness of the JJDPa.

Research shows that every dollar invested in delinquency prevention yields up to \$13 in cost-savings that otherwise would have been spent on courts and corrections.⁵³ Research also shows that community and family-based alternatives to detention are far less costly than locked secure detention.⁵⁴ CJJ should work with the states and allies to amplify these cost-savings, specifically around federal investments under the JJDPa programs, in order to clearly demonstrate to congressional appropriators how the JJDPa makes highly effective use of public dollars and produces cost-savings in the short- and long-term, while also saving lives and preventing tragic human costs by improving community safety.

19. Work collaboratively with the states to help them identify and change laws and policies that present barriers or jeopardize state compliance to the JJDPa.

Given its diverse membership throughout the United States, and its capacity for legislative analysis and education, CJJ is in an optimal position to identify and disseminate best practices across the states, including "best policies" that support compliance with the JJDPa. In partnership with OJJDP, or on its own, CJJ should use its capacity to work directly with individual states to help them identify and change state laws and policies that run counter to state compliance with the JJDPa.

- 20. Maximize training and technical assistance expertise to assist the states in sharing information regarding best practices in JJDPa compliance through CJJ SAG Source™, peer-to-peer networking, the development and dissemination of best practice guides and conferences.**

To fulfill its function under the JJDPa to “disseminat[e] information, data, standards, advanced techniques and program models,” CJJ has developed a number of tools to educate states about best and promising practices. CJJ should continue and enhance its support to the states through the strengthening of these tools, including:

- Provide and facilitate intensive training and technical assistance to states, including peer-to-peer training, to support compliance and the advancement of best and promising practices.
- Disseminate information to the states through:
 - o Reports, policy briefs and other publications;
 - o Webinars and conference call series; and
 - o SAG Source™, an on-line information resource for SAG members and JJDPa state staff housing a virtual library of documents that showcase the important work of the nation’s SAGs.

PUBLICATIONS FROM THE COALITION FOR JUVENILE JUSTICE

Supporting Juvenile Detention Reform in JJDP State Three-Year Plans: Coalition for Juvenile Justice Best Practice Bulletin, 2009.

State-Level Detention Reform: A JDAI Practice Guide for State Advisory Groups, a Joint Publication with the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation, 2008.

What Are the Implications of Adolescent Brain Development for Juvenile Justice? Applying Research to Practice Brief, 2006.

What Are the Implications of Adolescent Brain Development for Juvenile Justice? Emerging Concepts Brief, 2006.

Childhood on Trial: The Failure of Trying and Sentencing Youth in Adult Criminal Court, 2005.

Unlocking the Future: Detention Reform in the Juvenile Justice System, 2003.

Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention, 2001 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Esperanza: Awakening to the Strength of Latino Youth, Report on the 6th Annual Ethnic and Cultural Diversity Training Conference, 2001.

Handle With Care: Serving the Mental Health Needs of Young Offenders, 2000 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Enlarging the Healing Circle: Ensuring Justice for American Indian Youth, Report on the 5th Annual Ethnic and Cultural Diversity Training Conference, 2000.

Ain't No Place Anybody Would Want to Be: Conditions of Confinement for Youth, 1999 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

A Celebration or a Wake? The Juvenile Court After 100 Years, 1998 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

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Transformation of the Juvenile Justice System: The States of the States, 1996 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

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Myths and Realities: Meeting the Challenge of Serious, Violent, and Chronic Juvenile Offenders, 1992 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

A Unique Partnership for Children, 1991 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

A Delicate Balance, 1988 Annual Report to the President, Congress and Administrator of the Office of Juvenile Justice and Delinquency Prevention.

To order a CJJ publication, please call (202) 467-0864, ext. 0.

ENDNOTES

- ¹ Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, 88 Stat. 1109 (codified as amended at 42 U.S.C. § 5601 et seq. (2002)).
- ² Juvenile Justice and Delinquency Prevention Act § 223(a)(11).
- ³ Juvenile Justice and Delinquency Prevention Act § 223(a)(13).
- ⁴ Juvenile Justice and Delinquency Prevention Act § 223(a)(12).
- ⁵ Juvenile Justice and Delinquency Prevention Act § 223(a)(22).
- ⁶ *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*. National Council on Crime and Delinquency (2007). Available at http://www.nccd-crc.org/nccd/pubs/2007jan_justice_for_some.pdf.
- ⁷ Juvenile Justice and Delinquency Prevention Act § 223(c)(1).
- ⁸ Juvenile Justice and Delinquency Prevention Act § 223(c)(2)(A).
- ⁹ Juvenile Justice and Delinquency Prevention Act § 221(b).
- ¹⁰ Juvenile Justice and Delinquency Prevention Act § 241(a).
- ¹¹ Juvenile Justice and Delinquency Prevention Act §§ 204(b)(6), 223(c).
- ¹² Juvenile Justice and Delinquency Prevention Act § 204(b)(3).
- ¹³ Juvenile Justice and Delinquency Prevention Act § 206(c).
- ¹⁴ Juvenile Justice and Delinquency Prevention Act § 206(b).
- ¹⁵ Juvenile Justice and Delinquency Prevention Act § 223(a)(3).
- ¹⁶ Juvenile Justice and Delinquency Prevention Act § 223(a)(3)(B).
- ¹⁷ Juvenile Justice and Delinquency Prevention Act § 223(a)(3)(C).
- ¹⁸ Juvenile Justice and Delinquency Prevention Act § 223(f)(2)(C)-(E), 299A(d).
- ¹⁹ Juvenile Justice and Delinquency Prevention Act §§ 221(a), 223(a).
- ²⁰ Juvenile Justice and Delinquency Prevention Act § 501 et seq.
- ²¹ Juvenile Justice and Delinquency Prevention Act §§ 204, 251 et seq.
- ²² Juvenile Justice and Delinquency Prevention Act §§ 221(a)(1).
- ²³ Juvenile Justice and Delinquency Prevention Act § 222(a)(2)(B).
- ²⁴ Juvenile Justice and Delinquency Prevention Act § 222(a)(2)(A).

²⁵ Juvenile Justice and Delinquency Prevention Act § 223(f)(1).

²⁶ Juvenile Justice and Delinquency Prevention Act § 223(f)(2)(A)-(E).

²⁷ U.S. Department of Justice, *Department of Justice FY 2008 Congressional Budget Justification*, p. OJP-3; U.S. Department of Justice, *FY 2009 Performance Budget, Office of Justice Programs*, p. 34.

²⁸ Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 2002, Pub. L. No. 107-77 (2001), H.R. 2500-16 (2001); Omnibus Appropriations Act, 2009, Pub. L. No. 111-8 (2009).

²⁹ *Id.*

³⁰ Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act of 2002, Pub. L. 107-77, H.R. 2500-16 (2001).

³¹ Consolidated Appropriations Act of 2008, Pub. L. No. 110-161, 121 Stat. 1844, 1911 (2007).

³² Omnibus Appropriations Act of 2009, Pub. L. 111-8, H.R. 1105-58 (2009).

³³ The President's Budget for Fiscal Year 2010, pg. 760.

³⁴ *Id.*

³⁵ Juvenile Justice and Delinquency Prevention Act § 223(c).

³⁶ OJJDP Formula Grants, Consolidated Regulation, 28 C.F.R. Part 31 (1996).

³⁷ Juvenile Justice and Delinquency Prevention Act § 299A(d).

³⁸ Juvenile Justice and Delinquency Prevention Act §§ 204(b)(6), 252.

³⁹ Juvenile Justice and Delinquency Prevention Act § 223(a)(23).

⁴⁰ To view a complete copy of the CJJ Platform Position on Reauthorization of the JJDP, go to http://www.juvjustice.org/reauthorization_platform.html.

⁴¹ *Supra* note at 27.

⁴² *Id.*

⁴³ See, for example, the Consolidated Appropriations Act of 2008, Pub. L. No. 110-161, 121 Stat. 1844, 1911 (2007): of the \$61.1 million dollars appropriated for the JJDP Title V Local Delinquency Prevention Grants Program, \$14.1 million was earmarked for the Tribal Youth Program, \$18.8 was earmarked for the Gang Resistance Education and Training (G.R.E.A.T.) Program and \$25 million was earmarked for the Enforcement of Underage Drinking Laws Program. These earmarks, totaling \$57.9 million, represent 95 percent of the Title V appropriation for FY 2008, leaving only \$3.2 million to be allocated among 55 states.

⁴⁴ *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*, Justice Policy Institute (2009).

⁴⁵ To learn more about the Relative Rate Index (RRI) and its application, see Puzzanchera, C., Adams, B., and Snyder, H. "An Interpretation of the National DMC Relative Rate Indices for Juvenile Justice System Processing in 2005." *National Disproportionate Minority Contact Databook*. Prepared by the National Center for Juvenile Justice for the Office of Juvenile Justice and Delinquency Prevention. Released June 2008. Available at http://www.ojjdp.ncjrs.gov/ojstatbb/dmcdp/pdf/dmc_interpretations.pdf.

⁴⁶ Juvenile Justice and Delinquency Prevention Act § 223(a)(3)(A)(ii)(II).

⁴⁷ Juvenile Justice and Delinquency Prevention Act § 206(a).

⁴⁸ Juvenile Justice and Delinquency Prevention Act § 223(a)(3)(A)(ii).

⁴⁹ Juvenile Justice and Delinquency Prevention Act § 103(7).

⁵⁰ Juvenile Justice and Delinquency Prevention Act § 103(8)(c).

⁵¹ The complete list of recommendations is found in CJJ's related report *Enlarging the Healing Circle: Ensuring Justice for American Indian Children*, A Report on the 5th Annual Ethnic and Cultural Diversity Training Conference (2000), available at http://www.juvjustice.org/media/resources/resource_135.pdf.

⁵² Juvenile Justice and Delinquency Prevention Act §§ 223(a)(3)(B) and 223(a)(3)(D)(ii).

⁵³ http://www.aecf.org/upload/PublicationFiles/jdai_facts1.pdf.

⁵⁴ *Id.*



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