



Department of Justice

STATEMENT OF

**ROBERT L. LISTENBEE
ADMINISTRATOR**

**OFFICE OF JUVENILE JUSTICE AND DELINQUENCY
PREVENTION
OFFICE OF JUSTICE PROGRAMS**

BEFORE THE

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ENTITLED

**“THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION
ACT: PRESERVING POTENTIAL, PROTECTING
COMMUNITIES”**

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Robert L. Listenbee
Administrator
Office of Juvenile Justice and Delinquency Prevention
Office of Justice Programs
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Regarding the Juvenile Justice and Delinquency Prevention Act
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Chairman Whitehouse and other distinguished members of the committee, thank you for this opportunity to discuss juvenile justice reform and the Department of Justice's support for the reauthorization of the Juvenile Justice and Delinquency Protection Act.

I am Robert L. Listenbee, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Department's Office of Justice Programs (OJP). As you know, in 1974 Congress enacted the Juvenile Justice and Delinquency Prevention Act (JJDP) (Pub. L. No. 93-415, 42 U.S.C. § 5601 et seq.) and established our Office. I am pleased to speak with you today as we approach the 40th anniversary of that landmark legislation and discuss reauthorization of the JJDP.

As a former public defender and trial lawyer with nearly 30 years of service, I have dedicated myself to seeking justice for youth involved in the juvenile justice system - a system that often re-victimized youth in the name of accountability. We know that a number of factors place youth at a higher risk of entering the juvenile justice system including childhood exposure to violence, mental health problems, substance abuse, and cognitive disabilities. During my tenure at the Defender Association of Philadelphia, as Chief of the Juvenile Unit for 16 years and trial lawyer for 27 years, I created a specialized unit to deal with juvenile sexual assault cases and was instrumental in developing three specialty court programs that diverted youth out of the juvenile justice system and reduced their risk of residential placement.

In my role as OJJDP Administrator, I have drawn from these experiences and they have informed my priorities and goals for advancing the work of this office. I embrace OJJDP's vision for "a nation where all our children are healthy, educated, and free from violence. Should they come into contact with the juvenile justice system, that contact should be rare, fair, and beneficial to them." My priorities are to support state and local efforts and uphold the responsibilities of OJJDP to protect children who are victims of violence, crime, and abuse; address the needs of youth who come into contact with the juvenile justice system and of those who are at risk of becoming involved with the system; as well as our commitment to ensuring public safety and reducing violence in the communities.

To that end I have articulated five major priorities: (1) adopt a developmental approach to juvenile justice reform; (2) integrate evidence-based research in all program, grants, and initiatives; (3) reduce youth violence and its impact on children in homes, schools, and communities while developing programs that address trauma and trauma informed care; (4) reduce Disproportionate Minority Contact/eliminate racial and ethnic disparities; and (5) maintain public safety.

JJDPA REAUTHORIZATION SUPPORT

The Department strongly supports the reauthorization of the JJDPA. OJJDP has worked closely with Congress in support of their efforts to reauthorize the JJDPA. OJJDP has heard from juvenile justice organizations and practitioners who support juvenile justice reform. Reauthorization ensures children and youth at risk for involvement or who are already involved in juvenile and criminal justice systems are afforded the opportunity to participate in high-quality, effective programs and are protected from harmful conditions of correctional confinement.

Reauthorization of the JJDPA will enhance public safety, hold youth appropriately accountable, reduce re-offending, and, by ensuring youth receive appropriate services, will capture and maximize cost savings for state and local jurisdictions. Additionally, recent evidence-based research underscores the need to provide developmentally appropriate, trauma informed services and support to youth across the juvenile justice continuum¹. Youth need support from initial contact with the juvenile justice system, to placement, as well as reentry and aftercare services in order to minimize delinquency and prevent recidivism.

The Department of Justice, through its JJDPA, is charged with providing State and local governments and tribal jurisdictions with training, technical assistance, research and information on effective programs for combating juvenile delinquency. It is OJJDP's responsibility to help ensure that our children are healthy, educated and free from violence; and in those rare occasions they come into contact with the juvenile justice system, that contact should be fair and beneficial to them.

While much can be accomplished through the reauthorization of the JJDPA, there are some very specific items which OJJDP believes are critical to juvenile justice reform and public safety.

Among them are:

- Require states in their State Plans to promote the use of evidence-based intervention and prevention programs and provide appropriate services for youth while ensuring safety within communities. These programs and services should be trauma-informed, recognize the developmental needs of the youth in their care, and stress the components of healthy psychological development for all adolescents.

- Provide enhancements to the Disproportionate Minority Contact (DMC) core requirement, ensuring states' ability to assess and remedy DMC and racial/ethnic disparity concerns.
- Enhance services and support indigenous and culturally-based practices to assist American Indian and Alaska Native at-risk youth by, for example, providing resources to develop tribally-specific interventions for high-risk youth, establishing safe places where American Indian and Alaska Native children who have been exposed to violence can receive temporary shelter, and providing evidence-based indigenous care and treatment.
- Improve youth access to qualified legal representation.
- Include a three-year phase-out of the Valid Court Order (VCO) exception, and seven-day hold limitation on detention of status offenders for VCO violations during this interim period.
- Prior to the complete phase-out of the VCO exception, clarify that the VCO exception shall apply only to individuals who have first been brought under the court's jurisdiction based on a predicate status offense.
- Modify the current definition of "adult inmate" to give states the flexibility to allow juveniles under adult criminal court jurisdiction to be placed – and remain – in juvenile facilities until they reach the state's age of extended juvenile court jurisdiction.
- Provide clarifying language that would require states that detain juveniles who have been accused or adjudicated for alcohol violations, which would not be violations of the law if committed by an adult over 21, be considered and treated as status offenders.
- Encourage the use of community-based alternatives to the detention of youth charged with status offenses.
- Enhance the availability of juvenile re-entry services and recognize that re-entry (1) is a process that begins at confinement; (2) includes the assessment, services, and release planning that occurs in the facility and the services and supervision youth receive upon re-entry; (3) ends with his or her successful reintegration into the community, and (4) prioritizes education and employment as essential elements of the reentry plan.
- Enhance provisions that recognize the need for gender-responsive programs which consider their significant, complex, and pressing unmet needs. Research has shown that girls most often enter and remain in the system for violation of valid court orders related to original status offense charges or technical violations of probation conditions that resulted from original minor offenses. Moreover, the

increase in girls' arrests can be directly attributed to relatively new mandatory or pro-arrest policies adopted to protect victims of domestic violenceⁱⁱ.

- Increase Title II, Part B training and technical assistance set-aside from 2 to up to 8 percent.

JUVENILE JUSTICE REFORM

As Administrator, I believe that OJJDP has a crucial role to play in fostering and encouraging juvenile justice reform. OJJDP's extraordinary history of leadership and its unique capacity to establish comprehensive policy directions; to provide grants to explore ideas and concepts for reform; to define, pursue, and fund the research agenda; to provide targeted complementary training and technical assistance; and to utilize its communications tools to enhance public awareness give it the capacity to play a major leadership role in the reform of juvenile justice in the nation.

Research suggests that a young person's entry into the juvenile justice system substantially raises the likelihood by more than 50 percent that he or she will someday return to the systemⁱⁱⁱ. Also, detention and out-of-home placement can worsen pre-existing mental health and emotional problems in many young people. Research has also shown that many young people in the system are themselves victims of violence, crime, and abuse which often serves as a trigger for their own violence and re-offending^{iv}.

OJJDP's overall goal is to achieve better outcomes for children by keeping status offenders, such as truants, out of the juvenile justice system. Children who commit minor offenses and are at low risk of reoffending should also be diverted out of the system where appropriate, and barred from detention and out-of-home confinement except for extraordinary circumstances.

The juvenile justice community is now beginning to look more closely at associated factors that place kids at a higher risk of entering the juvenile justice system, such as childhood exposure to violence, crime, abuse, and mental health issues. Research has shown that prolonged trauma can derail normal brain function and make it difficult for children to 1) perform well in school; 2) develop normal relationships, and 3) stay on the path of pro-social behavior^v.

State and local jurisdictions are moving away from their reliance on incarceration and are focusing more on community based programs and services that more effectively address the multiple needs of youth who are at risk or who are involved in the juvenile justice system. Based on the latest available national and state-level data that we have from our online Statistical Briefing Book there were less than 62,000 delinquent youth in residential placement facilities held per day as of October 26, 201^{vi}. This figure is a 36-year low.

Despite this encouraging trend, the juvenile justice system still needs to improve in several areas, especially regarding rates of arrest and confinement for minority youth.

Although they make up on 17% of the population in the U.S., more than half (54%) of all juvenile arrest for violent offenses involved black youth between the ages of 10 and 17 in 2011, as opposed to 47% for white youth and 1% for Asian and American Indian Youth.^{vii}

Although there is support for change, reform efforts are uneven within states and very few have embarked upon comprehensive reform across the entire state. Additionally, there is no consensus about how to improve outcomes for kids or the importance of providing robust services to children who are diverted out of the juvenile justice system, or out of detention or out-of-home placement facilities; although there is a growing recognition that significant cost savings can be achieved.

We are at a pivotal moment in the history of juvenile justice. Juvenile justice professionals have embraced the need for evidence based practices. Adoption of a developmental approach to juvenile justice reform with the understanding of the effects of violence and trauma on children along with the provision of trauma-informed care will improve outcomes for children while holding them accountable and ensuring public safety. OJJDP has embraced this rising tide of system reform and transformation because the reform's success is evidence-based, it promotes public safety, and provides positive outcomes for youth.

OJJDP'S ACCOMPLISHMENTS TO SUPPORT AND PROTECT CHILDREN

In addition to promoting juvenile justice reform, on a daily basis OJJDP provides national leadership, coordination, and resources to respond to the needs of our youth who come into contact with the criminal justice system. At the same time, we also protect children in America who are victims of abuse, violence and crime.

Research Activities

OJJDP supports research and programs that promote the safety and well-being of the nation's youth and urges states and communities to adopt a trauma-informed approach for treating children exposed to violence and a developmental approach to juvenile justice. Over the past decade, states and localities, with assistance and support from OJJDP, greatly expanded their efforts to keep young people out of the system through front end diversion, community-based programs, and expunging juvenile records.

In 2011, OJJDP commissioned the National Academy of Sciences (NAS) to review recent advances in adolescent behavioral and neuroscience research, draw out the implications of this knowledge for juvenile justice reform, and assess the new generation of reform activities occurring in the United States. The resulting report *Reforming Juvenile Justice: A Developmental Approach*^{viii}, which NAS released in June 2013, offers recommendations on how policymakers, practitioners, and researchers should address the needs of children who are at risk for involvement or who are involved in the juvenile justice system. In FY 2013, OJJDP awarded NAS \$25,000 to develop an implementation

guide. The MacArthur and Annie E. Casey Foundations are providing additional support to this effort.

Supportive School Discipline Initiative

The Department of Justice and OJJDP are partnering with the Department of Education to catalyze reform through the Supportive School Discipline Initiative. The initiative stresses positive approaches to modifying adolescent behavior within the context of school, rather than suspending and expelling students for non-violent behavior. The Council of State Governments, which published a report in 2011 that examined school zero tolerance policies in Texas, received \$200,000 in FY 2013 to support consensus building activities among stakeholders. The result of that consensus building process is the *School Discipline Consensus Report*^{ix}, released on June 3, 2014. The report brings together innovative strategies from education, health, law enforcement and juvenile justice to create a roadmap for school discipline reform. Also in 2014, the Departments of Education and Justice jointly released the Discipline Guidance Package that will assist states, districts, and schools in developing practices and strategies to enhance school climate, and ensure they comply with federal law.

Child Protection

National Task Force on Children Exposed to Violence

On December 12, 2012, the National Task Force on Children Exposed to Violence, funded by OJJDP, presented to Attorney General Eric Holder its final report and recommendations for launching a coordinated national response to children's exposure to violence. The report includes 56 recommendations and highlights the importance of identifying children who are victims or witnesses of violence and providing support and services to help them heal. It promotes the development of programs that provide children access to supportive and nonviolent relationships with trusted adults in their homes and communities. The recommendations also call for training for professionals who work with children to identify and respond to the trauma children experience when they witness or are victims of violence. The task force also recommends that all children who enter the juvenile justice system be screened for exposure to violence.

On April 12, 2013, Attorney General Eric Holder outlined initial steps to implement the Task Force on American Indian/Alaska Native (AI/AN) Children Exposed to Violence, one of the key recommendations in the final report. The AI/AN task force, supported by OJJDP, is a joint effort among the Departments of Justice and the Interior and tribal governments. The task force focuses on improving the identification and treatment of AI/AN children exposed to violence, supporting communities and tribes as they define their own responses to this problem, and involving tribal youth in developing

solutions. An advisory committee of experts appointed to examine the scope and impact of violence facing AI/AN children will make policy recommendations to Attorney General Holder on ways to address the problem. The task force convened public hearings in Bismarck, ND, Phoenix, AZ; and Fort Lauderdale, FL; and will hold the last hearing in Anchorage, AK, on June 9, 2014. The task force is scheduled to present its final report to the Attorney General in fall 2014.

Defending Childhood

In 2011, Attorney General Eric Holder launched the Defending Childhood Initiative in response to findings by the National Survey of Children's Exposure to Violence (NatSCEV). This nationwide survey described how often children are exposed to violence and the types of violence that they are subjected to both as direct victims and as witnesses. The Defending Childhood Initiative directs resources within the Department of Justice and other federal government agencies to reduce children's exposure to violence, raise public awareness about its consequences, and advance research on ways to counter its destructive impact. In Fiscal Year (FY) 2013, OJJDP awarded more than \$10.6 million to support the Defending Childhood (Boston, MA; Chippewa Cree Tribe, MT; Cuyahoga County, OH; Grand Forks, ND; Multnomah County, OR; Portland, ME; Rosebud Sioux Tribe, SD; and Shelby County, TN) and Safe Start demonstration sites (Philadelphia, PA; Spokane, WA; Detroit, MI; El Paso, TX; Worcester, MA; Aurora, CO; Denver, CO; New York, NY; Honolulu, HI; and Kalamazoo, MI) that are providing evidence-based trauma-informed treatment to children exposed to violence. In addition, OJJDP is funding affiliated research and training and technical assistance efforts.

Confronting Commercial Sexual Exploitation and Sex Trafficking in the United States

With funding from OJJDP, in September 2013, the Institute of Medicine and the National Research Council released its report *Confronting Commercial Sexual Exploitation and Sex Trafficking in the United State*^x. The research team based its deliberations on three fundamental principles: 1) these crimes should be understood as acts of abuse and violence against children and adolescents, 2) minors who are sexually exploited for commercial purposes or trafficked for sexual purposes should not be considered criminals, and 3) identification of victims and survivors and any interventions should do no further harm. The report recommends increasing public awareness and understanding of the issue; strengthening the law's response; expanding research to advance understanding and the development of prevention and intervention strategies; building multi-sector and interagency partnerships; and developing trainings for child welfare, law, education, and health care professionals in the identification of and assistance to victims and survivors.

AMBER Alert

In FY 2013, OJJDP invested \$2.5 million to provide training and technical assistance to AMBER Alert partners. To date, 685 abducted children have been recovered

as a direct result of an AMBER Alert. The AMBER Alert Program is a voluntary partnership between law-enforcement agencies, broadcasters, transportation agencies, and the wireless industry to activate an urgent bulletin in the most serious child-abduction cases. AMBER Alerts instantly galvanize the entire community to assist in the search for and the safe recovery of the child. Presently, there are 120 statewide, regional, and local AMBER Alert programs across the country.

Internet Crimes Against Children Task Force Program

In FY 2013, OJJDP's investment in the Internet Crimes Against Children (ICAC) program amounted to more than \$25 million in awards to the 61 task forces and 4 training and technical assistance providers. A nationwide network of 61 ICAC task forces investigate and prosecute sexual predators who prey on our nation's children through the Internet and other technologies. Every year, the number of investigations that ICAC task forces open continues to rise, as do the number of arrests. In FY 2013, ICAC task forces received 63,204 documented complaints of child exploitation, conducted 48,641 investigations, and made 6,906 arrests. In addition, the task forces conducted 56,136 forensic exams of computers and other technology and trained 34,797 law enforcement officers, prosecutors, forensic examiners and community outreach personnel.

Reducing Youth Violence

The Department of Justice has brought together the best and the brightest at the local, state, and federal levels to develop solutions to the violence and gang activity that are tearing apart so many communities in this country. Together, they are reshaping our national response to violence.

National Forum on Youth Violence Prevention

Since 2010, OJJDP has supported the National Forum on Youth Violence Prevention, which is active in Boston, MA; Chicago, IL; Detroit, MI; Memphis, TN; Salinas, CA; San Jose, CA; New Orleans, LA; Philadelphia, PA; Minneapolis, MN, and Camden, NJ. Sadly, homicide disproportionately affects individuals ages 10–24 in the United States and consistently ranks in the top three leading causes of death in this age group. The Forum encourages its members to share common challenges and promising strategies to reduce violence through comprehensive planning and coordinated action. In FY 2013, OJJDP continued funding the community efforts in the 10 sites, an ongoing assessment by John Jay College, and training and technical assistance, for a total of about \$2.5 million. In December 2012, John Jay College of Criminal Justice and Temple University's Department of Criminal Justice released an implementation assessment that suggests that the initiative has generated promising change. . The Department of Education has also provided funding and is working closely with DOJ and Health and Human Services to enable selected schools to put in place or strengthen a range of universal and tailored intervention (tiered behavioral supports) for the Forum cities. The

10 Forum cities view tiered behavioral supports as one key strategy to boost schools' capacity to prevent youth violence and improve service delivery to students.

Community-Based Violence Prevention Program

OJJDP provides grants for existing violence prevention programs and strategies that are known to be effective under the Community-Based Violence Prevention Program. The program's goal is to reduce violence in targeted communities through the replication of such programs as the Boston Gun Project, the OJJDP Comprehensive Gang Model, and the Cure Violence model. In FY 2013, OJJDP awarded more than \$8 million to Baltimore, MD; Syracuse, NY; Camden, NJ; Kansas City, MO; Newport News, VA; and Baton Rouge, LA, to continue and expand their violence prevention programs. OJJDP also invested \$2 million in field-initiated research in this area.

Mentoring

OJJDP has supported mentoring initiatives for more than 30 years. In FY 2013 alone, OJJDP awarded more than \$75 million in grants to support mentoring programs, research, and training and technical assistance. Research indicates that mentoring, when done properly, can be an effective way to guide young people away from delinquency. Over the years, thinking on mentoring has evolved. Beyond the model of one caring adult serving as a guide and steadying influence in a young person's life, OJJDP has sought ways to reach youth who were not served because of where they lived, a shortage of mentors, special physical or mental challenges, or other isolating conditions. OJJDP continues to fund research to learn which components of the mentoring dynamic are most effective and how providers can enhance the mentoring experience for the mentor and the young person. Among OJJDP's mentoring activities in FY 2013 were the following:

White House Listening Session on Mentoring Children of Incarcerated Parents

On September 30, 2013, OJJDP organized a one-day listening session, "Mentoring Children of Incarcerated Parents," in partnership with the White House's Domestic Policy Council and Office of Public Engagement to explore specifically how mentoring can help this population in Washington, DC. The session brought together national experts in mentoring, researchers, youth service providers, parents, and youth to discuss how to improve or enhance mentoring services for these vulnerable children. Research suggests that 1 in every 28 children in the United States has a parent behind bars. These children often experience financial instability, emotional distress, changes in family structure, problems at school, and social stigma. However, research indicates that supporting healthy and positive relationships between these vulnerable children and their families can mitigate these negative outcomes.

Research on Mentee Risks Status and Mentor Training as Predictors of Youth Outcomes

In FY 2013, OJJDP invested \$500,000 in the Research on Mentee Risks Status and Mentor Training as Predictors of Youth Outcomes project to examine the dynamics of effective mentoring matches. This research project examines whether trained mentors can moderate aggressive, delinquent, and substance abusing behaviors among children of incarcerated parents, youth in foster care, and juvenile offenders. Researchers will analyze data on the mentee/mentor characteristics, mentor training, and support practices from two national archives of data in the MENTOR/National Mentoring Partnership's MentorPro and Big Brothers Big Sisters of America's AIM database. They are also conducting follow-up interviews with program directors to collect more qualitative data on program practices.

CONCLUSION

In conclusion, I believe that we have seen some encouraging trends in the decline in youth in custody, the increase in states compliance with core requirements, and promising reform efforts by states. However, there is still much to be done in a number of areas to include children's exposure to violence; racial and ethnic disparities; and trauma and trauma informed care to name a few. OJJDP is diligently working with our partners, at the state, local, and tribal levels to address these issues. Reauthorization of the JJDPA will strengthen the core requirements and provide the necessary funding to support these important juvenile justice programs. I'd like to thank you for the opportunity to testify before the Committee on this important issue.

ⁱ OJJDP Juvenile Justice Bulletin, June 2013: PTSD, Trauma, and Comorbid Psychiatric Disorders in Detained Youth: <http://www.ojjdp.gov/pubs/239603.pdf>.

ⁱⁱ OJJDP Juvenile Justice Bulletin, June 2013: PTSD, Trauma, and Comorbid Psychiatric Disorders in Detained Youth: <http://www.ojjdp.gov/pubs/239603.pdf>.

ⁱⁱⁱ OJJDP Report - Juvenile Offenders and Victims: 2006 National Report – Pg 234: <http://www.ojjdp.gov/ojstatbb/nr2006/downloads/NR2006.pdf>.

^{iv} *PTSD, Trauma, and Comorbid Psychiatric Disorders in Detained Youth*

^v OJJDP Children's Exposure to Violence: A Comprehensive National Survey Bulletin, October 2009. <https://www.ncjrs.gov/pdffiles1/ojjdp/227744.pdf>.

^{vi} OJJDP Statistical Briefing Book. Released on September 24, 2013. <http://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2011>.

^{vii} OJJDP Juvenile Offenders and Victims: National Report Series Bulletin, December 2013: *Juvenile Arrest 2011*, Analysis of Snyder, H. and Mulako-Wantota, J., Bureau of Justice Statistics, *Arrest data Analysis Tool*

^{viii} National Research Council. *Reforming Juvenile Justice: A Developmental Approach*. Washington, DC: The National Academies Press, 2013. OJJDP-commissioned report: http://www.nap.edu/catalog.php?record_id=14685.

^{ix} The School Discipline Consensus Report: *Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System*, June 3, 2014: http://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf.

^x Institute of Medicine and National Research Council. *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*. Washington, DC: The National Academies Press, 2013. OJJDP-commissioned report: http://www.nap.edu/openbook.php?record_id=18358.