**Federal Advisory Committee on Juvenile Justice**

**Summary of Meeting**

**December 9, 2004**

The Federal Advisory Committee on Juvenile Justice (FACJJ) was convened for its third meeting at 9:00 a.m. on December 9, 2004, at the Capital Hilton Hotel, Washington, DC. The purpose of the meeting was to allow the full committee to vote on the calendar year 2004 Annual Report to the President and Congress and the Report to the Administrator of OJJDP. Prior to voting on the annual reports, Mr. J. Robert Flores, Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), addressed the meeting. In addition, the advisory group's four subcommittees - annual report, grants, legal, and planning - met during a working lunch to plan their activities for 2005. The subcommittees then presented their reports to the full FACJJ where they were put to a vote for approval.

**Juvenile Justice Advisory Committee Members Present**

**Chair:** David R. Schmidt (Primary): New Mexico
**Vice Chair:** Hasan Davis (Primary): Kentucky
**Parliamentarian:** Mark A. Johnson (Primary): North Dakota

Joe M. Thomas (Primary): Alabama
Carol Brenkle (Alternate): Alaska
Derick Johnson (Alternate): Arizona
Stan Hanstad (Primary): California
Lindi Sinton (Primary): Colorado
Michael Arrington (Primary): Delaware
James Berry (Alternate): District of Columbia
Robert M. Evans (Primary): Florida
Deborah Edwards (Alternate): Georgia
Christopher M. Duenas (Primary): Guam
Linda C. Uehara (Alternate): Hawaii
Scott Mosher (Primary): Idaho
Patricia Connell (Alternate): Illinois
Robert Mardis (Primary): Indiana
Allison Fleming (Alternate): Iowa
Ken Moore (Primary): Kansas
Bernardine S. Hall (Primary): Louisiana
Edwin Chester (Primary): Maine
James G. Kirk (Primary): Maryland
Robert Gittens (Primary): Massachusetts
Jeriel Heard (Primary): Michigan
Michael Mayer (Primary): Minnesota
Alfred L. Martin, Jr. (Primary): Mississippi
Steven Rice (Primary): Montana
Allen R. Jensen (Primary): Nebraska
Dan Prince (Primary): Nevada
Glenn Quinney (Primary): New Hampshire
B. Thomas Leahy (Primary): New Jersey
Michael Elmendorf II (Primary): New York
Robin Jenkins (Alternate): North Carolina
Tom Mullen (Primary): Ohio
Daniel Elby (Primary): Pennsylvania
Juan Casillas (Alternate): Puerto Rico
Dottie DeFeo (Alternate): Rhode Island
Harry Davis, Jr. (Primary): South Carolina
Janine Kern (Primary): South Dakota
Cindy Durham (Primary): Tennessee
Charles Brawner (Primary): Texas
Dick Smith (Primary): Vermont
Robert E. Shepherd, Jr. (Primary): Virginia
Ann Carey (Primary): Washington
Fred P. McDonald (Primary): West Virginia
John E. Frentheway (Primary): Wyoming

American Samoa, Arkansas, Connecticut, Missouri, Northern Marianas, Oklahoma, Oregon, Utah, and Wisconsin were not represented at this meeting.

**Office of Juvenile Justice and Delinquency Prevention**J. Robert Flores: Administrator
Greg Thompson: Associate Administrator
Chyrl Andrews: Deputy Associate Administrator
Timothy Wight: Outgoing Designated Federal Official
Robert Samuels: Acting Designated Federal Official as of 1/1/05

**Report Writer**Kay McKinney

**Juvenile Justice Resource Center**Daryel Dunston: Federal Efforts Specialist
Wanda Keyes, Project Coordinator

**Observers at Open Meeting**David J. Doi, Coalition for Juvenile Justice, Washington, DC
Marion Mattingly, Editor, Washington, DC
Jenise "Jo" Patterson, Washington, DC

**Welcome And Opening Remarks**

Chairman David Schmidt (NM) called the meeting to order and welcomed participants. He noted the impressive turnout for a 1-day meeting and thanked those who had to travel some distance to attend the meeting. He pointed out that the committee has come a long way in 1 year as a cohesive group. He thanked the subcommittee co-chairs for their great leadership and said he is proud of the work the advisory committee has accomplished thus far. Mr. Schmidt then introduced Mr. Flores.

Mr. Flores welcomed the participants and brought them up to date on a number of OJJDP activities.

**National Conference on Truancy:** OJJDP, in partnership with the U.S. Department of Education (ED), concluded a 2 ½-day national conference on truancy on December 8. Mr. Flores noted this partnership illustrates that federal agencies can work together.

**Agency Collaboration:** Mr. Flores reported much is happening behind the scenes regarding collaboration among federal agencies. The U.S. Department of Labor (DOL) has about $3.5 billion available to provide job training for youth. DOL is changing the focus of this program so that a substantial amount of the funds can be targeted at young people who are aging out of the foster care system, dropping out of school, and leaving detention facilities. Mr. Flores noted that if even 10 percent of this money starts going to youth in the juvenile justice population, it would be the equivalent of a $350 million-effort to provide job training to youth in the juvenile justice system.

Partly as a result of work by the Coordinating Council on Juvenile Justice and Delinquency Prevention (another federal advisory group overseen by OJJDP), DOL is working to coordinate with the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Housing and Development (HUD) in the job training program. Mr. Flores told the advisory committee that he hoped that in the next 12 months, they will see significant changes in their states in what federal agencies are communicating to their counterparts at the state level and in actual programming.

The Office of Justice Programs (OJP) hopes to have a "what works" registry of programs available soon. The registry will be unified across HHS and the Education Department as well as DOJ and will list programs that are backed by research and evaluation. OJP hopes this registry will simplify the grant application process, especially for smaller grantees.

**Mental Health:** Mr. Flores said the issue of mental health is another OJJDP priority. Congress made the issue an OJJDP responsibility last year, and OJJDP and HHS have had several substantive meetings about mental health issues.

**Advisory Committee Activities:** Mr. Flores noted that OJJDP elevated the importance of the advisory committee a year ago and worked to increase its ability to impact national policy. He pointed out that committee members represent the views of their governors and have the ability to be much more in touch with the actual way things play out in the lives of children. He praised the committee for its accomplishments; thanked Mr. Schmidt for his leadership; and applauded Tim Wight, the Designated Federal Official (DFO), for his efforts over the past year. He also announced that Mr. Wight would be leaving OJJDP shortly after the December meeting to join OJP's Bureau of Justice Assistance. Mr. Flores then introduced Bob Samuels as the next Acting DFO. Mr. Samuels is a senior member of OJP. He directed the Office of Weed and Seed for a number of years; has experience with law enforcement and community advocacy; and brings with him experience in both substance and process.

**OJJDP Budget Issues:** The House and Senate 2005 appropriations conference report made it appear that OJJDP would receive $20 million more than expected. Mr. Flores said a closer look at the budget shows the increase is largely due to more than $120 million in earmarks. The budget also contains language that gives OJJDP greater flexibility to fund expanded training and technical assistance (T&TA). In recent years, T&TA amounts were small and came from very limited pots of money. Mr. Flores explained that the budget now provides "10 and 2" language, which allows the office to use 10 percent of program funding for research, evaluation, and data collection, and 2 percent for T&TA.

Mr. Flores also touched on the accountability-based sanctions supplement to the Formula Grants program. The fiscal year (FY) 2004 budget did not include the supplement (which had been part of the budget since 1998) and Mr. Flores said he was not sure yet if the problem had been addressed in the 2005 budget. He added that unlike last year, when OJJDP was able to reallocate deobligated Formula Grant funds to address the loss of the supplement, he does not have the funds to make up the change in allocations. This could have significant consequences for the states.

OJJDP also is continuing to discuss whether the Title V Community Prevention Grants Program (Title V) should be changed from a formula-based block grant program to a discretionary program. Mr. Flores was asked how the office would set up the program if it becomes a competitive bid process. For example, would states compete nationally, regionally, or among similarly populated states for the money? Mr. Flores said the office is looking at number of possibilities. He stressed that OJJDP must strive to cooperate and work with other federal agencies that have prevention dollars in order to make a difference in the lives of children.

Mr. Flores also noted that Congress budgeted $15 million for juvenile mentoring programs. Although some of this money will go to the national office of Big Brothers/Big Sisters, Mr. Flores said the remaining amount will allow OJJDP to continue to be a significant player on the mentoring field.

**SAG Meetings:** Mr. Flores concluded his remarks by saying he would like to meet with State Advisory Groups (SAGs) over the next year to learn firsthand about the issues with which states are dealing

Mr. Schmidt thanked Mr. Flores for his comments, time, and efforts on the committee's behalf. The chair called on Robert Shepherd (VA), Co-Chair of the Annual Report Committee.

**Annual Report Proceedings**

Mr. Shepherd preceded the Annual Report Committee report by presenting a one-page resolution that acknowledged and thanked Mr. Wight for his outstanding support of the advisory committee in 2004 and for exhibiting great patience and congeniality with the members and subcommittees of the advisory committee. Mr. Shepherd moved that the full advisory committee adopt the resolution and it was unanimously seconded by all those present. After receiving a standing ovation, Mr. Wight thanked everyone and said he has always been in awe of the dedication each of the committee members has toward juveniles and children throughout the country and their willingness to serve on a committee like FACJJ.

Mr. Shepherd then presented the 2004 annual report of the advisory committee to the President and Congress and the separate report to the OJJDP Administrator. He acknowledged the work of the subcommittee members, who met in Washington, DC, in the spring of 2004 and held numerous phone conference calls before presenting drafts of the reports to the full advisory committee in Denver in July. Controversial issues were debated and suggestions for improving the reports were presented in Denver. Mr. Shepherd said there had been ample opportunity for committee members to have input into the final reports and noted that report writer Kay McKinney had actively solicited information from members who had requested that additional information be inserted into the reports. He then moved that the full advisory committee adopt the two annual reports for publication and transmittal to the designated individuals and Congress.

During the ensuing discussion, Joe Thomas (AL) said that after consulting with his state's governor and congressional delegation, he supported the annual reports wholeheartedly except for Recommendation 13 (which addresses the death penalty) in the report to the President and Congress and that he would not vote for the report for that reason. Juan Casillas asked that he be listed in the reports as the primary member from Puerto Rico. Mr. Wight indicated the correction would be made if OJJDP has appropriate documentation from the governor of Puerto Rico. Chuck Brawner (TX) asked to substitute the motion on the floor to approve the two reports with a motion to vote on the reports separately. His motion was seconded and approved. (Mr. Flores then left the meeting so the committee could freely discuss the two reports.)

Mr. Shepherd moved that the report to the OJJDP Administrator be approved. It was seconded and passed with no further comment. Mr. Shepherd then moved the committee approve the Report to the President and Congress. The motion carried with no votes from Mr. Thomas and Mr. Brawner.

**Subcommittee Reorganization and Other Topics**

Mr. Shepherd announced one change in the Annual Report Committee for 2005. Pat Connell (IL) will replace Susan Morris (OK) as Co-Chair of the committee.

Mr. Schmidt urged those who had not signed up to be on one of the four subcommittees to do so and he also asked if members who wished to switch committees to do so.

OJJDP was asked to provide information about which governors have and have not appointed successors to the advisory committee for 2005 and if a calendar has been set up for 2005 activities. Mr. Wight provided a list of reappointments received to date and asked the Planning Committee to discuss the calendar and provide recommendations to OJJDP. The office will make the final determination about the time and place of future meetings. Mr. Wight also noted it may be difficult to achieve the Spring/Fall cycle of meetings discussed in Denver in July.

The issue of terms limits was also raised. The current charter (Section H) states that members are to serve on the advisory committee for a term of 2 years and that no member may serve more than two consecutive terms. Members expressed concern about not allowing primary members to serve as alternate members (and vice versa) once their original terms have ended. In addition, the terms of alternate and primary members end at the same time, allowing for no continuity. Mr. Wight said the two-term limits were instituted in an effort to get a more balanced membership. Before the advisory committee was restructured last year, its membership was comprised of the chair of every SAG. That created a problem because SAG chairs cannot be government employees, therefore no one from law enforcement, education, state administering agencies, etc., was represented on the advisory group. OJJDP wanted a balance of nongovernment and government representation on the new advisory committee because the office wanted it to reflect the diversity of SAG membership within the states. Mr. Wight recommended that the Legal Affairs Committee discuss the issue and present any recommendations to the full advisory committee.

Mr. Schmidt adjourned the meeting for a working lunch and directed the subcommittees to meet to prepare their recommendations to the chair for presentation to the FACJJ after lunch.

**Committee Reports**

Following lunch, Mr. Schmidt asked for subcommittee reports.

**Legal Affairs Committee**: Co-Chair B. Thomas Leahy (NJ) read the following recommendations from the subcommittee:

* **Recommendation 1:** The subcommittee recommends to OJJDP that Section H (Membership) of the Charter be amended to include a sentence that says "The interpretation of "member" will mean the "primary" member. This would permit an alternate to be appointed as a primary member after a primary member has served his or her two terms.
* **Recommendation 2:** The subcommittee recommends to OJJDP that Section H of the Charter and the coinciding language on page 16 of the Bylaws be amended by striking the current language and substituting the following: "The primary member and the alternate shall be recommended to the Administrator of OJJDP by the Chief Executive of the jurisdiction at his/her discretion. There shall be no term limits for the primary member and/or the alternate. The Administrator of OJJDP should encourage the Chief Executive to obtain input from the SAG as to whom from the SAG to appoint as the primary member and/or the alternate."

The FACJJ adopted these two recommendations.

* **Recommendation 3:** The subcommittee recommends that the Planning Committee schedule FACJJ meetings for 2005 and the Annual Report Committee submit requests for SAG input for the 2006 annual reports and circulate the resulting suggestions to the full FACJJ sufficiently in advance of the Fall meeting. This will enable the full FACJJ to have input as the Annual Report Committee begins working on the 2006 annual reports. **Discussion:** A lively discussion between Mr. Shepherd and members of the Legal Affairs Committees ensued. Recognizing that the Annual Report Committee is already working on the 2005 report (see next recommendation), Mr. Leahy stressed this recommendation addresses the 2006 report and is designed to help FACJJ members be more involved at the beginning of the report process. As it now functions, the Annual Report Committee receives suggestions from the SAGs, analyzes and evaluates them, then drafts the annual reports without FACJJ members having a chance to see the submissions. Various Legal Affair Committee members stressed they simply want to see what the states have suggested and work with the Annual Report Committee in prioritizing topics before the reports are drafted. Mr. Shepherd, although fully concurring with advancing the schedule for the submissions of recommendations so that they would be due prior to the Fall meeting, expressed several major concerns, including having the whole body discuss the recommendations before Annual Report Committee members have had a chance to discuss and make a preliminary screening of the submissions. He also raised issues of meeting deadlines and the problems associated with writing and editing publications with multiple authors. The FACJJ subsequently approved this recommendation as stated.
* **Recommendation 4:** The subcommittee recommends that the Annual Report Committee compile SAG suggestions for the 2005 reports and distribute the suggestions to FACJJ members prior to the Spring 2005 meeting. **Discussion:**Another lively debate ensued. Members of the Legal Affairs Committee said because the Annual Report Committee will have prepared a first draft of the 2005 annual reports by the Spring meeting in April, they simply want to see what issues the states identify in their responses to the survey, which are due Jan. 14, 2005. Mr. Shepherd said the Annual Report Committee had already prepared a work plan for the 2005 report, which does not include this extra step. It was finally agreed that all FACJJ members will receive a copy of the initial compilation of the states' responses to the survey and the tabulation of topics and states submitting them at the same time the Annual Report Committee receives this information from the Annual Report Writer. A motion to call the question was made and passed. The recommendation then passed on a roll call vote.

**Planning Committee:** Co-Chair Harry W. Davis Jr. (SC) read the following recommendations from the subcommittee:

* **Recommendation 1:** The subcommittee recommends that FACJJ meetings be expanded from 1 day to 1 ½ days to allow for presentations or training sessions. Suggested topics include disproportionate minority contact, youth aging out of the juvenile justice system, alternatives to detention, and mental health. **Discussion:** Mr. Wight said such training is out of the scope of legislation that created the FACJJ. The advisory committee's role is to provide recommendations to the OJJDP administrator on the operation of the office and recommendations to the President and Congress on juvenile justice issues. The legislation also requires that OJJDP provide training and technical assistance to SAGs, which OJJDP does through the Coalition on Juvenile Justice (CJJ). Mr. Wight noted it is important to keep the advisory and training functions separate. He also urged FACJJ members to take advantage of the training opportunities OJJDP provides through CJJ and other grants. A member of the Annual Report Committee noted the Fall meeting will need to be more than 1 day if FACJJ members are to discuss the SAG responses to the next survey and the topics to be included in the 2006 annual reports. Chairman Schmidt rephrased the motion (deleting the language about training) so that the proposal read that the Planning Committee recommends that FACJJ meetings be extend to 1 ½ days with the added time being used to meet the legal responsibilities of the FACJJ. The motion passed as restated.
* **Recommendation 2:** The subcommittee recommends that the 2005 FACJJ Spring meeting be held in Washington, DC, on April 18th with a half day to be added either the day before or day after. The motion carried.
* **Recommendation 3:** The subcommittee recommends that the Fall meeting be held during the first week of December in San Antonio, TX, with the same 1 ½- day format as the April meeting. **Discussion:** Because OJJDP has to coordinate FACJJ meetings with other meetings on its schedule, Mr. Wight said the DFO sets the meetings days, times, and location; the office will consider the Planning Committee's suggestions. Mr. Davis stressed that FACJJ and OJJDP need to make a commitment about where the meeting is to be held and at least select a month as soon as possible in order to find meeting space and favorable rates. Mr. Davis then rephrased the motion into recommending that the location of the Fall meeting be San Antonio. The chair accepted the new wording and the motion carried. The DFO will discuss the dates of the meeting with the Planning Committee members as expediously as possible.

Finally, Mr. Davis reminded FACJJ members that survey responses for the 2005 annual reports are due Jan. 14, 2005, and implored members to prod their states to comply with that deadline.

**Grants Committee:** Co-Chair Allison Fleming (IA) presented the following recommendations from the subcommittee:

* **Recommendations 1 and 2:** The subcommittee urges that FACJJ recommend to the OJJDP Administrator that OJJDP continue the current formula-based distribution of Title V Incentive Grants for Local Delinquency Prevention monies. The subcommittee believes that without a state distribution there is a disincentive for states and Congress to be supportive of future funding; that some states do not have the capacity to compete effectively in a competitive grant process; and that juvenile justice decisions should be made at the state level rather than at the federal level. **Recommendation 2:** The subcommittee asked that FACJJ convey this recommendation to the OJJDP Administrator immediately. Both recommendations were accepted.
* **Recommendations 3 and 4:** The subcommittee urges FACJJ to recommend to the President and Congress that Congress amend the FY 2005 Juvenile Justice and Delinquency Prevention Act appropriation to ensure that accountability-based sanctions supplement language, which was in the FY 03 appropriations, is included in the 2005 appropriation. The supplement language was removed in the FY 2004 appropriations. As noted earlier, OJJDP was able to find the money to make up that difference but Mr. Flores indicated in his remarks that OJJDP does not have the extra money to make up the difference this year. **Recommendation 4**: The subcommittee asked that this motion be conveyed to the President and Congress immediately. Both motions carried.
* **Recommendation 5:** Because of the potential to affect a state's funding, the subcommittee recommends that FACJJ ask OJJDP to clarify the options for juveniles sentenced under blended sanctions and or youthful offender programs. For example, a juvenile who has been transferred or waived to the jurisdiction of a criminal court may be detained or confined in a juvenile facility with other juveniles who are under the jurisdiction of the juvenile court. Or, a juvenile court may sentence an offender to a juvenile correctional facility for a time period during which the offender may come to exceed the age of the court's extended jurisdiction. The subcommittee is requesting clarification for these types of situations. The motion passed.
* **Recommendation 6:** The subcommittee recommends that FACJJ encourage the OJJDP Administrator to continue developing mutually beneficial funding streams for juveniles with ED, DOL, and HHS. The motion passed.

The Grants Committee also supports the "10 and 2" funding language Mr. Flores discussed in his remarks regarding OJJDP's budget.

**Annual Report Committee:** Co-Chair Bob Shepherd gave the subcommittee's report:

The subcommittee has developed a timeframe for developing the 2005 annual reports, which will be based on states' responses to the survey FACJJ initially distributed in October 2004. (Responses are due Jan. 14, 2005). The survey asks states to submit the top five problems they identified in their 3-year plans and to suggest any additional recommendations to be considered. OJJDP and FACJJ will again use Ms. McKinney as the report writer. She will consolidate and group survey results by subject area and themes and compile the number of states that have listed a particular recommendation. The subcommittee will involve the full FACJJ membership in the process as soon as possible. The subcommittee will meet Feb. 25 and 26, 2005, in Washington, DC, to start working on the report so initial drafts will be ready to circulate at the Spring meeting.

After some closing comments, Mr. Schmidt adjourned the meeting.