Policy Briefing Paper on Juvenile Justice and Delinquency Prevention Act Reauthorization

NPSC Policy Committee
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Prevention Science to Inform Juvenile Justice Policy: Reauthorizing the Juvenile Justice and Delinquency Prevention Reauthorization Act

National Prevention Science Coalition to Improve Lives

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INTRODUCTION:
This brief includes recommendations with five key themes that can supplement the impressive work done by Congressional leadership and staff as efforts move forward to reauthorize the Juvenile Justice and Delinquency Prevention Act:

1. An intentional focus on prevention and earlier intervention -- a health/public health framework may be most useful;

2. The importance of appropriating resources at levels to ensure appropriate infrastructure and “scaling” frameworks as grounded in prevention (implementation) science;

3. Engaging families and communities early, often and in significant ways;

4. Strengthening capacities and competencies at every level (federal, state, local) in implementing evidence-supported and promising practices as well as their use of quality management systems to ensure compliance with the Act; and

5. Funding what works and most promising evidence based practices (EBP’s).

Values and Basis for What Follows:
The critical importance of primary prevention: There are many, groups, organizations and coalitions advocating for JJDPA reauthorization. NPSC’s unique contribution to the dialogue is in advocating for prevention science (versus treatment science, system improvement, or child protection, for example) and primary prevention. The Act’s original intention was to support scientifically-informed efforts to prevent delinquency before it occurs and to reduce the prevalence of delinquency among the whole population (universal prevention). The empirical evidence for both the effectiveness and the cost-effectiveness of primary prevention is even stronger than for intervention/treatment (secondary or tertiary prevention).

Appropriations: Prevention has always been an intended cornerstone of the act, but politics and budget priorities have significantly and negatively changed impacts created by the JJDPA; thus appropriations for prevention activities were dramatically reduced (in fact, eliminated in many cases). What is needed are appropriations to implement prevention frameworks at the national level that will create the contexts both administratively and programmatically for effective prevention frameworks to be implemented in states and local jurisdictions. We suggest consideration of a stipulation in the Act that the funding appropriated for Title V must be equal to or greater than the combined appropriation(s) for the sections related to compliance with the core mandates. The addition of Title V in the 1992 reauthorization was a great victory for prevention, but it also unintentionally put all the prevention eggs in one basket, so when there is no money appropriated for Title V, the JJPDA becomes the JJA. Further, we ask that
Congress find a mechanism in the JJDPA reauthorization to make primary prevention its priority – parallel to the core protections. And, that Congress seek commitments to protect prevention-focused appropriations from the earmarking process.

Addressing Disproportionate Minority Contact: There are many potential benefits to this idea as a core protection (mandate). For example, there is probably no more effective mechanism for addressing Disproportionate Minority Contact (DMC) than effective primary prevention for community mobilization and youth development. As articulated in the 2002 reauthorization, Congress recognized the front-end importance of preventing disparate racial/ethnic/gender outcomes when young people are at risk of entering the juvenile justice system when Congress changed the wording from "confinement" to "contact". But an important argument has been lost along the way -- much of the DMC focus at the federal level has centered on decision-making within the justice system (e.g. training judges or collecting demographic data on kids in court or confinement). We believe that an adequate appropriation level for primary prevention (guided by science: a risk-responsivity factor focused approach and the use of tested-effective prevention programs) can substantially reduce delinquency at the population/community level; and subsequently reduce caseloads in the juvenile justice system making compliance with the other core mandates also less expensive.

We further recommend that OJJDP establish a true prevention office or division with specific accountability to implement a national prevention plan informed by the latest science (a built-in mechanism for annually checking back to the latest research). The prevention office would be dedicated to bringing the OJJDP and ultimately the states/territories up to capacity. It would not work in a silo; rather, it should be tasked to coordinate/collaborate with other evidence-based, prevention-focused entities across government as well as the education and other sectors to leverage dollars, knowledge and responses. A dedicated prevention office or division would focus on improving awareness of true prevention and implementation science vis-à-vis juvenile delinquency prevention, through community-based and population oriented EBPs that effectively address the underlying causes of delinquency. Such an office/department/division would create and report annually on the development and diffusion of a national delinquency prevention plan that incorporates these ideas at all levels of government, and matches funding strategies to expected outcomes. The prevention initiative can be tied to other legislative vehicles such as the Runaway and Homeless Youth Trafficking Act and specific programs such as the Nurse-Family partnership, Communities that Care, school-based climate interventions/initiatives, evidence-based mentoring programs and others.

In conclusion, the important point to make is that the “system” is being inefficient, and often ineffective if (a) we focus mainly on system-involved youth and compliance with the Act, and (b) we do not use the benefits of prevention science to drive our strategic thinking, planning and programming when considering the broadest possible goals for the Act. Prevention is not just about adding programs. The philosophy, models, goals and approaches emphasized via prevention efforts have clearly been documented to save money, lives, and have shown some of the greatest promise for population level effects.
Additional Framing:

Historically the strength of the JJDPA comes from its focus on a unifying set of core principles designed to keep children and youth safe when engaged with the juvenile and adult criminal justice systems. The fundamental core protections are:

- sight and sound separation of youth from adults in lockups and jails;
- removal of all juveniles from adult jails and lockups;
- de-institutionalization of status offenders; and
- reductions in disproportionate minority contact (DMC) with the juvenile justice system – including law enforcement)

These are the minimal expectations of states when participating in the Act.¹

Governors in each state must also appoint a State Advisory Group (SAG) composed of statutorily-mandated membership categories that advise them on matters of sound juvenile justice policy. Titles II and V of the Act are primarily used to set appropriations to assist states in conforming to the law as well as reforming their juvenile justice systems where possible. In the past, other appropriations have been included in the implementing agency’s (OJJDP) pool of resources to enhance prevention services (e.g., mentoring, Juvenile Accountability Block Grant) among other programs.

Recently, Senators Grassley (IA) and Whitehouse (RI) introduced “A bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes” (S.1169). Parallel legislation is being considered by members of the House of Representatives. The language in the proposed reauthorization adds the following important improvements (there are others, these are main points):

- More extensive support for evidence-based and promising programs;
- Strengthens trauma-informed and mental health/substance abuse capacities;
- Increases accountability for states’ compliance expectations;
- Heightens expectations for improved legal defense of juveniles in the courts
- Removes of the valid court order exception;
- Encourages safe and humane treatment of juveniles by discouraging the use of federal funds on dangerous practices, and
- Improves states’ measurable outcomes related to the DMC requirement.

¹ Presently only Wyoming does not participate in the Act
This memo is intended to support policymakers, administrators, advocates, and others who seek to enhance policymakers’ use of prevention and transdisciplinary science research to ultimately support their work of providing the most beneficial as well as efficient approaches to federal juvenile justice policy. Recognizing that many groups are weighing in (Act4JJ coalition and the American Bar Association have submitted recommended improvements [see link¹ and link²], along with several others), this memo emphasizes empirically supported benefits that prevention science brings to the issues.

In the proposed Senate bill, the lists of ideas for enhancements are quite comprehensive. Fundamentally, the reauthorization bill includes many provisions designed to incorporate current delinquency prevention and intervention research (see link³, link⁴, and link⁵). And, to help standardize longitudinal research on recidivism (an assumed proxy measure for overall federal juvenile justice policy effectiveness), the reauthorization bill’s research and training sections (Sections 209, 209) require the establishment of a national recidivism measure and annual recidivism reporting to better understand various factors and trends occurring in the states and territories relative to implementation of the Act.

Prevention and Transdisciplinary Science: Research to Assist Policymakers

Prevention science and transdisciplinary science are closely related fields where knowledge is generated about “what works” to prevent disease, societal problems, or other negative population outcomes – and how knowledge is subsequently “translated” or transferred to larger groups (populations) for greater impact.

- **Prevention science** works across various disciplines and has generated findings that afford substantial benefits to policymakers who wish to align policy with the goals of maximizing efficiency to agencies and citizens;

- **Transdisciplinary science** studies and describes the various mechanisms required to transfer knowledge to practice as originally designed – so that effectiveness is not lost in scaling up or broader delivery of that knowledge in additional settings.

Relative to juvenile justice, both fields offer significant ideas that can assist at many levels.

**Recommendations**

With congressional reauthorization language moving forward, it is critical that policymakers have the best information available for use in a variety of policy vehicles (laws, administrative rules, regulatory guidance, etc.). S.1169 seeks to reauthorize the JJDPA; it reflects substantial improvements and feedback from an array of cross-discipline coalitions and entities.
The proposed reauthorization bill may be enhanced by including additional prevention and implementation science research findings where applicable. **Critical to the success of this legislation are needed investments in effective prevention and early intervention practices along with appropriate levels of funding for training, technical assistance, quality management, evaluation, and continuous learning at federal and state agency levels of operation.**

**Recommendation: Adopt Evidence-Based Interventions**

Implementation and evaluation experts\textsuperscript{vii} have documented the importance of creating the optimal contexts to move systems toward wider scale adoption of EBP’s \textsuperscript{viii,ix}. Evidence-based practices (indeed, juvenile justice system reforms) cannot be implemented without the specific structures, substructures and training/technical assistance required to do it well. George and Blasé\textsuperscript{x} note that three critical components that must be financed to adopt EBP’s:

1) **Startup**;

2) **Direct services** (the actual intervention), and

3) **Infrastructure** (includes training, coaching, fidelity and outcome assessments, support for data / information technology to integrate needed information for clear evaluative interpretation and cost-benefit findings).

**Recommendation: Increase Funding for Infrastructure and Ongoing Investments in Promising Practices**

S.1169 includes $159 million in appropriations (a 2% each year increase for years 2016-20). However, existing levels of federal funding are not sufficient to implement all that the Act requires, and this small increase is likely not sufficient. States cannot reform their systems without additional implementation supports. Implementing evidence based practices requires new infrastructure supports. Without these new supports, the result is likely to be:

- Poor or impartial adoption of best practices,
- A lack of fidelity to best practice during implementation,
- A lack of scale in adoption of best practice; and
- Inadequate efforts to evolve EBP’s, particularly within local contexts.

As Crowley (2014) states:

> To successfully deliver preventive programs and replicate the effectiveness of trials, this local capacity must be deliberately built through training and technical assistance...which can require significant resources. ‘**If we don’t budget for infrastructure, we can undermine the whole prevention effort.**’ \textsuperscript{xix}

Part of the evolution of science and knowledge includes investments in new studies that bring effective solutions to scale. It is vital that Congress **also recognize the need for ongoing**
investments in promising practices/approaches that can broaden the scope of evidence-supported interventions for states and local jurisdictions.

We recommend:

- **Adding language to Sections 204 (Allocation of Funds) and/or 205 (State Plans)** requiring that OJJDP direct states intending to use federal funds for the development and/or delivery of EBP’s, to use a minimum of 10-15% of any grant for the 3 areas noted by George and Blasé above;

- **Use of re-invested dollars (Section 204)** as incentives to scale up needed capacity for complying with the Act could catalyze states’ movement to do so more intentionally;

- **Add language to Section 208** directing OJJDP to research the most effective strategies for developing and delivering capacities to help states understand effective implementation frameworks within the context of juvenile justice reform (JJDPA focused). Such frameworks are essential to higher quality system and expert implementation supports.

- **Require implementation and infrastructure frameworks in Section 209** by directing OJJDP through cooperative agreements, collaborative research and/or training partnerships, or competitive grants to deliver training and technical assistance to the states and territories.

**Recommendation: Remove Duplication**

We recommend adding language directing the Coordinating Council (Section 202) create a plan where authorized to do so, to streamline and integrate various EBP mandates, best practices, community-based prevention and intervention planning requirements, including re-entry and aftercare, contained in several possibly related pieces of legislation:

- The proposed JJDPA reauthorization,
- Runaway and Homeless Youth and Trafficking Prevention Act;
- Second Chance Act, and
- If passed/appropriated, the Youth Promise Act

Efforts will be likely be duplicated at local, state and federal levels when implementing these important program elements from separate pieces of legislation. Several of these programs call for funding only EBP’s and promising practices with federal appropriations, the use of local crime prevention collaborations, evaluation of funding / program impacts along with increased development of data and reporting systems. The Council can help find seamless ways to build cross-agency infrastructure and training/technical assistance opportunities for everyone involved in those federal policies.
Recommendation: Improve Accountability for Compliance Mechanisms

Given that S.1169 also heightens accountability at every level (federal, state, grantee), this increased accountability will generate broader attention to staffing, travel, training, information systems, evaluation and reporting systems in order for states to provide full, transparent and comprehensive compliance. Ensuring compliance with the JJDPA is related to states’/territories’ having:

- the necessary resources to fully fund JJDP Act as intended by Congress
- a clear set of administrative rules and adherence to them
- appropriate levels of training and technical assistance from OJJDP, and
- clear linkages between programming and outcomes (evidence-based / promising practices and compliance activities [e.g., what EBP or set of practices will most effectively lead to compliance with the four core protections?])

We recommend that Congress provide clear statutory mechanisms in a reauthorized bill that more specifically provide the resources, training, rules expectations and guidance to inform these increase compliance expectations.

Recommendation: Other Specific Considerations

Beyond these infrastructure (and capacity building) considerations, prevention science can inform a reauthorized JJDPA in other various ways. The following table is offered as an “at a glance” set of example considerations for possibilities where prevention science may potentially strengthen an already promising reauthorization bill. The table is not meant to be comprehensive; rather it is offered with examples as guidance to illustrate some research available to help guide policymakers toward inclusion of evidence-based, cost-beneficial and effective ideas in the JJDPA reauthorization work:

<table>
<thead>
<tr>
<th>JJDPA Reauthorization Act Section (S.1169)</th>
<th>Recommendation</th>
<th>Support for the Recommendation</th>
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<tbody>
<tr>
<td>Section 203 – Annual Report</td>
<td>Include an expectation for states to annually report on efforts to develop the needed capacity and implementation supports required to effectively deliver EBP’s in the 3 areas cited by George and Blasé (above)</td>
<td>Adding a structured section in states’ annual reports specifically focused on capacity building for evidence-based and promising practices will create a new culture of focus and measurement as to capacity building expectations between OJJDP and the states / territories</td>
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<td>Section 204 – Allocation of Funds</td>
<td>Specifically direct DOJ/OJJDP to incentivize public-private investments in juvenile justice evidence based programming through Social Impact Bond vehicles where feasible; consider requiring a “carve-out” or percentage of annual appropriations for development and delivery of pay-for-performance initiatives with concomitant evaluation dollars appropriated for</td>
<td>Senator Bennet’s press release regarding S.1089 (Social Impact Partnership Bill) <a href="http://www.bennet.senate.gov/?p=release&amp;id=3323">http://www.bennet.senate.gov/?p=release&amp;id=3323</a> Tessler, B. (2013). WorkAdvance: Testing a New Approach to Increase Employment Advancement for Low-Skilled Adults. MRDC Policy Brief, Retrieved from...</td>
</tr>
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</table>
such use. Link the JJDPA either legislatively or via administrative requirements to **S.1089 Social Impact Partnership Bill** (if made into law).

Direct states to document **specific intentions and actions** as to **how they intend to use a majority of grant funds** for community based, evidence-supported practices at the earliest stages of child/adolescent development *(make this language required both in plans and in annual reports).* Recommend to states that they avoid any incarceration of youths if at all possible, never with adults, and strengthen school-community-parent engagement strategies to reduce criminalization of adolescent behavior where possible. Intentionally invest Title II and other funds in substance abuse prevention/treatment, trauma treatment and reduction, etc. (EBP’s). Create funding and program “streams” to align school climate and delinquency prevention, positive youth development, substance abuse prevention, and related issues.

Implement racial bias reduction strategies in intentional, measurable ways and document specific steps (matched to defined data elements) in state plans annually -- including measurement approaches and outcomes. One example would be to encourage and/or mandate that state plans have documented and evaluable strategic partnerships with state and local education and law enforcement agencies for data sharing, policy evaluation, shared programs and evaluations to find community-based and school-based alternatives to suspension/expulsion or related issues.

Section 205 – State Plans


**Domitrovich, C. E., Bradshaw, C. P., Greenberg, M. T., Embry, D., Poduska, J. M., & Ialongo, N.**
Document in state plans specific steps to take with state and local law enforcement agencies regarding youth policing strategies and tools for improving community-youth-law enforcement relationships.

Recommend expanding the State Advisory Group (SAG) composition to include an expert with experience in prevention science and/or transdisciplinary science that can inform the state level consideration of EBP’s, their scaling up/implementation as well as evaluation and reporting. If such expertise is not available, then an expert on implementing evidence based practices (and evaluating them) may be considered.

Recommend reconfiguring the required positions on each state’s advisory group, to ensure that someone with applied positive youth development expertise is a part of the SAG.

Recommend reconfiguring the SAG to ensure that someone with cultural/diversity expertise and training MUST be appointed by the state’s governor to each SAG.

Recommend that all state implementing agencies and SAGs receive core training in public health approaches that foster healthy development, child and adolescent growth, nurturing healthy families and communities. (also include this in Section 209 for OJJDP staff, contractors and grantees/cooperative agreement recipients that provide training and technical assistance to OJJDP-funded grantees in relevant program areas).


| Sections 208, 209 | Recommend that a reauthorized Act require OJJDP to work with all SAGs to include an appointed competent expert, or show a linkage to an affiliated / collaborating entity (i.e., university, college, volunteer contributor with relevant expertise, etc.) having demonstrated competencies in program evaluation for more definitive and measurable outcome reporting. Sections 208 and 209 require extensive reporting, training and technical assistance – and all of it must be tied to all levels of the Act for greater compliance and transparency. | An example of the importance for OJJDP to acquire better understanding of how to articulate its own reporting expectations as aligned with state three year plans and Congressional/OMB requirements can be seen in the agency’s own capacities. Promulgating an expectation that both in-house and cooperative-agreement funded technical assistance ensure that effective program development and evaluation competencies are available can be a very concrete, specific concept to include in Sections 208 and 209...examples of developing very clear program / evidence-informed theory can be found in Farmelo, Martha. “Suggested Guidelines for Creating a Theory of Change,” developed with support from the William and Flora Hewlett Foundation, 2014. March 11, 2015 version. Retrieved from http://www.hewlett.org/sites/default/files/TOC%20guide%20v%20%20Mar%2011%202015.pdf |
| Section 302 – Incentive Grants | Historically, Title V grants require 50% federal funds -50% local match support and have not specified a requirement to fund evidence-based practices. Recommend that the incentive grant match requirement be changed to 75% (federal) and 25% match (cash or in-kind), but require that any Title V prevention funds only be used for evidence-based or promising programs that are appropriately scaled and implemented with fidelity. Before granting funds, OJJDP and states should develop scoring rubrics that account for realistic, affordable, scalable implementation frameworks and align requested budgets with expected programming / predicted outcomes. To truly get effective practices in prevention, child development, mental health/substance into state plans, recommend in law that participating states document (in state plans-Section 205) specific collaborative agreements with mental health, substance abuse, child welfare and educational systems for the purposes of building a collaborative infrastructure to allow data sharing, cross-agency programming, flexible funding streams and joint accountability for results --- and in Section 302, incentivize states to consider Title V funds as portions of such collaborations (as allowable uses of the OJJDP Title V funding). | At the state level, an excellent “living laboratory” for these concepts can be found at: Hoagwood, K. E., Olin, S. S., Horwitz, S., McKay, M., Cleek, A., Gleacher, A., Hogan, M. (2014). Scaling up evidence-based practices for children and families in New York State: toward evidence-based policies on implementation for state mental health systems. *Journal of Clinical Child and Adolescent Psychology: The Official Journal for the Society of Clinical Child and Adolescent Psychology, American Psychological Association, Division 53*, 43(2), 145–57. doi:10.1080/15374416.2013.869749 Also, see: Inventory of Evidence-Based, Research-Based, and Promising Practices for Prevention and Intervention Services for Children and Juveniles in Child Welfare, Juvenile Justice, and Mental Health Systems” (Olympia, WA: Washington State Institute for Public Policy: June 2013) |
SUMMARY

The National Prevention Science Coalition to Improve Lives (www.npscoalition.org) offers these recommendations, policy suggestions and ideas for including more prevention and transdisciplinary (implementation) science in a reauthorized Juvenile Justice and Delinquency Prevention Act -- as “desktop” tools that policymakers may call upon as they consider updating the Act. The JJDPA is a critically important law, as it is the only federal juvenile justice policy that creates core requirements for the protection of children and youth within juvenile and criminal justice systems. Because of recent changes in funding priorities, budget reductions and rule-making, implementation of the Act has focused more on deeper end system-involved youth, incarceration issues, and a general focus on federal compliance. This characterization leads to much more expensive interventions and often the use of many unproven programs and strategies. Yet the Act clearly calls for prevention, and we have very well defined prevention research that informs a well-thought out reauthorized JJDPA. We hope that this paper affords a practical set of ideas that if incorporated into a reauthorized JJDPA, leads to more systematic development of national, state and local capacities to scale up and deliver evidence-informed practices.

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vii Metz & Albers (2014). What does it take? How federal initiatives can support the implementation of evidence-based programs to improve outcomes for adolescents. Journal of Adolescent Health, 54, 592-596
