



Monday, February 28, 2011

Mr. Jeff Slowikowski  
Acting Administrator  
Office of Juvenile Justice and Delinquency Prevention  
810 Seventh Street, NW  
Washington, D.C. 20531

Dear Mr. Slowikowski:

Re: OJP (OJJDP) Docket No. 1544

TimeBanks USA ("TBUSA") was founded as a think-tank and organizing force to spearhead the use of timebanking around the country. TimeBanking is a tool to build social capital and achieve systems change aimed at achieving social justice. A key principle of TBUSA's work is that recipients of services can "co-produce" desired social outcomes. This approach to systems change focuses on that the traditional beneficiaries of social programs – clients, recipients, and at-risk populations – have skills, talents, and essential knowledge and capacities needed to co-produce outcomes that address such issues as: juvenile justice, child welfare and education.

The Racial Justice Initiative of TimeBanks USA ("RJI" or the "Initiative") builds upon the broader co-production narrative of TBUSA by developing a social advocacy and litigation strategy to compel officials to use knowledge about programs and practices that work more effectively than current official practices that perpetuate racial disparities in juvenile justice, child welfare, special education and other systems affecting vulnerable youth. Our work has intensified and expanded its reach since our official launch in 2009.

The Initiative is broadly supportive of the priorities of the Office of Juvenile Justice and Delinquency Prevention ("OJJDP") has detailed to guide OJJDP for fiscal year 2011, but there are sections where the refinement of the goals, principle and parameters guiding OJJDP for the next year would better benefit America's youth and their communities.

1. Criteria for Evidence-Based Practices: The strict use of "evidence-based" practices is too narrow a criterion for OJJDP to promote. The designation "evidence-based" should be attached to practices and thus broadly construed to include empirically validated and promising practices even if the entire program has not been clinically validated. Furthermore, OJJDP should distinguish between evidence-based programs and evidence-based practices with "brand-name" model programs. While such programs show some positive effects, they do not show notably better effects than no-name programs that incorporate therapeutic practices such as: restorative practices, skill building, counseling and multiple coordinated services. OJJDP needs to promote constant innovation including programs that may not include the narrow designation of "evidence-based."

2. Disproportionate Minority Contact: Juveniles of color are more likely than their white counterparts to be arrested, referred to juvenile court rather than to diversion programs, charged, waived to adult court, detained at the pretrial stage, and liked up at disposition. From 2002 – 2004 African Americans constituted 16 percent of all youth, 28 percent of juvenile arrests, 30 percent of referrals to juvenile court, 37 percent of the detained populations, 34 percent of youth formally processed by the juvenile court, 30 percent of adjudicated youth, 35 percent of youth judicially waived to criminal court, 38 percent of youth in residential placement, 58 percent of youth admitted to state prison.<sup>1</sup> While OJJDP is addressing the support services and focusing on tribal youth for FY 2011, a broader emphasis on reducing overall DMC should be a priority in the upcoming fiscal year.

Private Right of Action: We propose that §223(a)(22) of the JJDP Act of 2002 be strengthened in the reauthorization to include a private right of action. Of the four core requirements of the JJDP Act, the DMC core requirement is the only core requirement that does not include a private right of action. At present, all a state must do to be in compliance with the DMC core requirement is to track the level of DMC within the state and counties. However, a private right of action would enable enforcement of the DMC core requirement to ensure that states use empirically validated programs and practices to lower DMC.

We appreciate OJJDP's positive approach to strengthening the protections for youth who become entangled with the juvenile justice system as well as understanding that community involvement is key component ensuring the best of all outcomes for youth. In addition, we strong applaud making tribal youth and girls a priority in FY 2011. However, without aggressively focusing on eliminating DMC represented in our nation's juvenile justice system or ensuring that states are using the practices that are less expensive and more effective than juvenile justice system involvement, our youth of color will only continue to have increasing likelihood of negative outcomes. The most effective way to eliminate DMC is to: (1) incorporate a private right of action for the DMC core requirement in the reauthorization of the JJDP Act of 2002, and (2) continue to encourage and require states receiving JJDP Act funds to use knowledge of programs that are less expensive and more effective that juvenile justice system involvement.

Respectfully submitted,



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TimeBanks USA



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<sup>1</sup> National Council on Crime and Delinquency, *And Justice for Some: Differential Treatment for Youth of Color in the Juvenile Justice System* 3 (2007).