



Reauthorizing the Juvenile Justice and Delinquency Prevention Act: The Impact on Latino Youth

By Marguerite Moeller*

BACKGROUND

The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), the primary law guiding federal juvenile justice policy, was up for reauthorization in 2007. During the 110th Congress, the U.S. Senate Judiciary Committee passed reauthorization legislation, but it was not taken up by the full Senate, and no action was taken in the House of Representatives. Likewise, neither the full Senate nor the House of Representatives took up reauthorization legislation in the 111th Congress. Thus, it is pending in the next congressional session.

JJDPA sets standards that apply to all youth involved in the juvenile justice system, but Latino youth stand to gain much from reauthorization. Though the available data on Latino youth do not provide a clear picture of Latino youth in the U.S. justice system,[†] in 2006 an estimated 14% (47,250) of all juveniles arrested were Hispanic, a figure that likely understates the problem.¹ Moreover, an estimated 18,000 Hispanic youth are incarcerated each day in the U.S.² Latino youth are often overrepresented in the juvenile justice system, receive harsher treatment than White youth for the same offenses, and are disproportionately affected by policies that treat youth as adults. Moreover, language and cultural differences serve as barriers to their fair and equal treatment in the justice system.

As the share of Latinos in the nation grows, their presence in the juvenile justice system is also likely to grow absent reform of juvenile justice policy. Congress must invest in targeted, culturally competent prevention services to keep Latino youth out of the system. It must ensure that reauthorization reduces the disproportionate contact that Latino youth have with the system, protects youth from the dangers of being held in jails and prisons, especially with adults, and supports evidence-based practices that keep Latino youth out of jail and prevent recidivism. Steps taken by Congress to reauthorize JJDPA can ensure that fewer Latino youth have contact with the justice system and end up in juvenile or adult correctional facilities, and that those who do receive more effective preventative and rehabilitative services.

The most recent action on JJDPA reauthorization began on March 24, 2009, when Senator Patrick Leahy (D-VT) introduced the “Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009” (S. 678). The bill had 17 additional bipartisan cosponsors.[‡] On December 17, 2009, the Senate

* Marguerite Moeller is Policy Associate for the National Council of La Raza’s (NCLR) Juvenile Justice Policy Project in the Office of Research, Advocacy, and Legislation (ORAL). Eric Rodriguez, Vice President, ORAL, and Raul González, Director of Legislative Affairs, provided significant substantive oversight and guidance on this paper. Gregory Wersching, Assistant Editor, and Kelly Isaac, Production Assistant and Graphic Designer, helped prepare this paper for publication. The production of this white paper was made possible by funding from the Atlantic Philanthropies, the John D. and Catherine T. MacArthur Foundation, and the Ford Foundation.

† Limited data are available on Latinos in contact with the juvenile or criminal justice systems; these statistics are drawn from data reported to the National Incident-Based Reporting System.

‡ Senators Arlen Specter (D-PA), Herb Kohl (D-WI), and Richard Durbin (D-IL) signed on as initial cosponsors of the legislation. Fourteen additional senators have since become cosponsors: Senators Daniel Akaka (D-HI), Sherrod Brown (D-OH), Roland Burris (D-IL), Benjamin Cardin (D-MD), Robert Casey, Jr. (D-PA), Susan Collins (R-ME), Al Franken (D-MN), Kristen Gillibrand (D-NY), John Kerry (D-MA), Mary Landrieu (D-LA), Robert Menendez (D-NJ), Jeff Merkley (D-OR), Bill Nelson (D-FL), and Olympia Snowe (R-ME).

Judiciary Committee conducted a markup of the bill, passing S. 678 by a bipartisan vote of 12–7. However, S. 678 was not taken up by the full Senate. On April 21, 2010, the House of Representatives Committee on Education and Labor held a hearing, “Reforming the Juvenile Justice System to Improve Children’s Lives and Public Safety.” On July 30, Representative Keith Ellison (D–MN) and Representative Bobby Scott (D–VA) introduced the “Juvenile Justice and Delinquency Prevention Reauthorization Act of 2010” (H.R. 6029). The bill was referred to the House Committee on Education and Labor and the House Committee on the Judiciary. However, no further action was taken on H.R. 6029.

This white paper provides a background of major issues that Latino youth face in the juvenile justice system, examines gaps in current law, and offers recommendations for reauthorization that will lead to fairer and more comprehensive treatment of Latino youth.

Glossary of Key Terms

Aultification: Treating youth as adults in the criminal justice system

Cultural competency: A system, agency, or organization’s ability to have attitudes, behaviors, policies, practices, procedures, and fiscal and personnel resources that enable them to work effectively in cross-cultural situations

Disproportionate minority contact (DMC): Occurs when the proportion of youth of color involved in the juvenile justice system is greater than the proportion of youth of color in the community

Jail or lockup: A locked facility that is used by a state, unit of local government, or any law enforcement authority to detain someone pending the filing of a criminal charge, awaiting trial on a criminal charge, or convicted of violating a criminal law

Prison: Generally, a facility owned by the state or federal government that holds felons and persons with sentences of more than one year

CRITICAL ISSUES FOR LATINO YOUTH

Latino youth are a rapidly growing group in the United States. In 2000, Latinos made up 15.4% of youth ages 10–17 in the U.S.;³ the percentage grew to 19.4% (6.4 million youth) by 2008.⁴ As the number of Latino youth continues to grow, more are likely to come into contact with the juvenile justice system. For example, in California the Latino youth population grew from 4.4 million in 2002 to 4.9 million in 2008.⁵ Arrests of Latino youth rose during the same period, from 85,284 in 2002 to 121,120 in 2008.⁵

Latino youth in the juvenile justice system face critical challenges. Poor data collection methods hide their presence in the system, but available data show that Latinos have disproportionately high contact with the system at all points. Evidence also suggests that Latino youth are harmed by policies and practices at the state and local levels, such as treating youth as adults in criminal court. Moreover, studies show that Latinos would benefit from greater access to community-based preventive services and alternatives to detention.

Recent downward trends in overall juvenile crime rates are a positive sign for the well-being of our youth and nation. The number of youth arrested in the United States dropped 3% between 2007 and 2008, falling to 2.1 million. Arrests of youth for violent crimes also dropped between those years, falling by 2%.⁷ Though these trends are promising, too many youth are still involved in the juvenile justice system.

Not surprisingly, a substantial number of Latinos are involved in juvenile justice systems in states with large numbers of Latinos. In California, a state that collects arrest data disaggregated by ethnicity and age, 121,120 Hispanic youth were arrested in 2008. That value represents 52.9% of all youth arrested in California that year.⁸

Latino Representation in the Juvenile Justice System

For more than 20 years, Congress has recognized the need to reduce the disproportionate contact that minority youth have with the juvenile justice system. In 1988, the Coalition for Juvenile Justice highlighted disproportionate minority confinement in its annual report, *A Delicate Balance*. This report helped bring the high levels of minority confinement in the juvenile justice system to national attention. As a result, Congress included in the 1988 reauthorization of JJDPA a requirement for states to work to reduce the overrepresentation of minority youth in confinement.

Four years later, Congress took further steps by tying compliance with this requirement to the receipt of federal funding. Under the 1992 reauthorization, if a state did not work to reduce disproportionate minority confinement, it risked losing 25% of its formula grant funding.

Congress broadened the law in 2002, responding to research which showed that minorities have disproportionately high contact with different points of the juvenile justice system. Congress subsequently required states to address the DMC that youth have with the entire system rather than just the overrepresentation of minority youth in confinement. However, this did not require data to be collected on the ethnicity of youth in the juvenile justice system or to specifically target the DMC of Latino youth. It maintained financial penalties similar to previous law: If a state failed to comply with the requirement, it risked losing 20% of its formula grant funding.

Treating Youth as Adults in Criminal Justice Systems

In the 1974 law, Congress made it a core requirement that youth in the juvenile justice system be separated from adults in confinement. Youth could not be confined or detained in an institution where they had contact with adult inmates. Six years later, in 1980, Congress made it a core requirement that

youth charged with juvenile crimes who are held in correctional facilities must be barred from adult jails and lockups, with limited exceptions, or states would lose federal funding. In those exceptional cases, youth cannot have sight or sound contact with adult inmates.

While federal law provided for jail removal and sight and sound separation for youth in juvenile confinement, it left it to the states to determine who would be adjudicated in juvenile justice systems. At the beginning of the 20th century, states established juvenile court systems to provide rehabilitative services, rather than punitive measures, for youth who committed crimes. However, as part of a “tough on crime” politics that swept the nation in the 1980s and 1990s, nearly every state enacted laws making it easier for youth to be tried as adults. These laws included requiring youth who fall into certain categories—often based on age or severity of the crime—to be tried in adult criminal courts with the potential for criminal sanctions (known as statutory exclusion laws).⁹ However, new research shows that both youth and communities benefit from keeping youth in juvenile justice systems. These studies have spurred some states to change their laws. For example, in 2010, Illinois and Connecticut lessened the severity of their statutory exclusion laws. Other states, including Wisconsin and North Carolina, continue to study the issue.

Community-Based Delinquency Prevention and Alternatives to Detention

Since it became law in 1974, JJDPA has encouraged and supported a relationship between governments and community-based organizations (CBOs). CBOs generally receive federal funding under JJDPA as subgrants from the state. The number of programs in JJDPA under which CBOs can receive such funds has grown since 1974. The Prevention and Treatment Programs grant that was part of the original law has been expanded in subsequent reauthorizations. In the 1992 reauthorization, Congress created and funded Incentive Grants

for Local Delinquency Prevention as well as Challenge Grants. It also created a series of new grant programs that were consolidated into the Juvenile Delinquency Block Grant program in 2002. The block grant itself was never funded, but some of the programs absorbed into it continued to receive steady funds.

Over the years, CBOs have increasingly become involved in providing delinquency prevention and alternatives to detention services for a number of reasons. Some CBOs get involved because specific events in the community compel them to act. For example, Men in Motion in the Community (MIMIC), a mentoring and delinquency prevention program in Philadelphia, was formed as a response to the growing appeal of gang life to youth in the community.¹⁰ Other organizations get involved in providing prevention services or alternatives to detention when they observe for a long period of time that youth need such services. The Mexican American Community Services Agency (MACSA) was founded to overcome injustice and discrimination facing the Mexican American community of Santa Clara County, California. As part of that mission, MACSA continually seeks ways to serve the community. It established delinquency and gang prevention programs after witnessing persistently high rates of gang involvement and teen pregnancy among Latino youth.¹¹ In addition, some CBOs have engaged in providing prevention services or alternatives to detention because the federal, state, or local government provided resources. For example, Congreso de Latinos Unidos started as an organization providing drug prevention and substance abuse programs to Latinos in Philadelphia. When the city of Philadelphia began offering funding for delinquency prevention programs, Congreso recognized an opportunity to provide greater service to the community.¹²

Today, many CBOs run delinquency prevention services such as tutoring programs, home visits, and mentoring programs. Practitioners agree that a critically important component of these services is providing youth with programming that fits their cultural and linguistic needs.

Doing so helps youth authentically engage with programs, which is vital to the success of community-based prevention programs in keeping Latino youth out of the juvenile justice system.¹³ Community-based organizations also provide alternatives to detention. These programs protect youth from the dangers of incarceration and allow them to remain in their home communities. For example, case managers from Southwest Key Programs, based in Austin, Texas, meet with youth three times per day, seven days per week, as an alternative to holding youth in pre-trial detention.¹⁴ These and other similar services cost taxpayers less than incarceration,¹⁵ help reduce disproportionate minority contact,¹⁶ and produce lower recidivism rates for youth,¹⁷ proving to be beneficial for the community as well. Despite the clear benefits of using CBOs to provide prevention services and alternatives to detention, appropriations for programs that fund CBOs have fluctuated over time and are currently lower than their 2002 levels.

Evidence-Based Practices

During the 1980s and 1990s, researchers began to develop a body of literature on services proven to be effective for youth involved in or at risk of becoming involved in the juvenile justice system.¹⁸ Today, the growing body of evidence-based practices in juvenile-justice-related fields ranges from preventing delinquency using family-based interventions¹⁹ to providing supportive after-care services once youth have left the system.²⁰ Of this literature, however, few programs have been tested and proven to work well specifically for Latino youth.²¹ Emerging research questions how effective currently approved evidence-based practices are for Latinos.²² Furthermore, many CBOs that work with a predominantly Latino clientele do not use practices that have been shown to be evidence-based by outside evaluators.²³

In the 1990s, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), in order to support programs proven likely to succeed in preventing juvenile delinquency, began giving preference in funding to delinquency prevention

programs that were developed based on research.²⁴ In the 2002 reauthorization of JJDP, Congress made evidence-based practices a part of the law for the first time, requiring states receiving delinquency prevention block grants to prioritize giving funds to prevention programs that use such practices. Congress further required states to prioritize giving funds to programs and activities that were supported by research as much as was practicable.

CURRENT LAW

Current federal law includes a number of provisions targeted toward youth who are at risk of experiencing contact with the juvenile justice system or who are in the system currently. Specifically, JJDP aims to address disproportionate minority contact, adultification, and the use of prevention services and alternatives to detention. It also addresses the use of evidence-based prevention and intervention practices.

Disproportionate Minority Contact

Under current law, states must “address” juvenile delinquency prevention and system improvement efforts that are designed to reduce the disproportionate contact of minorities with the juvenile justice system. Though this law aims to serve all minority youth, in practice there is little evidence that the law is effectively reducing DMC for Latinos. Rather than providing guidance and structure to enable states to reduce DMC, the wording of the DMC provision has enabled many jurisdictions in states such as New Mexico, Georgia, and Nebraska to fulfill the law’s requirements without significantly reducing DMC.²⁵ Jurisdictions such as Santa Cruz County, California and Berks County, Pennsylvania, which have successfully reduced racial and ethnic disparities primarily through the use of data analysis and community support, continue to be the exception rather than the rule.

The law also has significant gaps in its data collection requirements. Current law does not require jurisdictions to collect data on the ethnicity of youth in contact with the juvenile

justice system. As a best practice, decision-makers and administrators need accurate data describing DMC in order to implement targeted policies and procedures and measure their success.²⁶ In Santa Cruz, for example, data showed that Latino boys with substance abuse issues were spending more time awaiting nonconfinement placement than other children. In response, the Santa Cruz County Probation Department created a culturally competent drug treatment program that helped reduce the DMC of Latino boys with the justice system.²⁷ Lacking a federal requirement to collect data on ethnicity, many jurisdictions fail to do so. In 2005, only 13 out of 42 jurisdictions that reported data to the National Juvenile Court Data Archive (NJCDA) provided ethnicity data.²⁸ It is often difficult for communities that lack accurate ethnicity data to work effectively to reduce the DMC of Latinos.

Moreover, the law does not require jurisdictions to collect data on the language ability or English proficiency of youth who come into contact with the juvenile justice system. These data can be used to guide jurisdictions in providing culturally and linguistically competent services to the youth with whom they work, which is integral to reducing DMC.²⁹ The need for such services is great. As nationwide data demonstrate, in 2008, 17% of Latino children ages 5–17 did not speak English very well. That same year, 23% of Latinos under age 18 lived in a household where no one age 14 and older spoke English very well.³⁰ Nevertheless, only one jurisdiction collected and reported language data to the NJCDA in 2005.³¹ Lacking these data, individual jurisdictions are often unable to measure the scope of the need to provide culturally and linguistically competent services to youth.

Finally, the law does not require jurisdictions to collect data at multiple points of the juvenile justice system, even though research demonstrates that Latinos are overrepresented at all stages of the system.³² Without such data, jurisdictions are often unable to implement targeted policies and procedures to reduce DMC where they are needed most.

Adultification

Under current law, no youth charged as juveniles can be detained or confined in any jail or lockup for adults, except in exceptional situations such as waiting for transfer to a youth facility. In such cases, youth must not have contact with adult inmates. While this protects youth from the dangers of being confined with adults, it fails to protect the estimated 7,500 youth each day who are charged as adults in the criminal justice system and held in adult detention centers prior to trial for crimes ranging from minor offenses in most cases to serious felonies in other instances.³³ As written, the law allows youth charged in the adult criminal system to be detained or confined in jails or lockups for adults, where they have fewer rehabilitative opportunities and are exposed to greater dangers.

Furthermore, according to current law, in the situations when juveniles can be held in adult jails and lockups, status offenders and juveniles alleged to be or adjudicated delinquent cannot be detained or confined where they may have contact with adult inmates to protect them from the dangers of contact with adults. However, like the adult jail and lockup requirement, this provision also does not apply to youth who are charged as adults in the criminal justice system. Ten states require youth in the criminal justice system to be held in adult detention facilities prior to trial. Thirty-nine more states allow it, though fortunately in practice 20 of these states require to some extent that they be separated from adults.³⁴ Despite this, many youth in the criminal justice system risk facing the dangers of contact with adults.

In approximately 40 states, even if a youth is convicted of a crime as an adult, the youth can still be held in a juvenile facility. Given previous OJJDP guidelines' interpretation of the definition of "adult inmate" under current law, those states may have been in conflict with federal law for integrating youth with these "adults" in juvenile facilities and therefore risked losing federal funding. The OJJDP Administrator has attempted to address this by issuing new guidelines giving

states the flexibility to house youth convicted as adults in juvenile facilities. However, these guidelines are not codified.

Policies such as these, which allow youth to be held in jails or lockups with adults, have negative implications for Latino youth. In general, youth detained in the criminal justice system face higher risks of sexual abuse and suicide, greater educational disconnection, and a higher likelihood of recidivism than youth held in juvenile systems.³⁵ More specifically, Latino youth disproportionately face the danger of contact with adults in the criminal justice system. They are 40% more likely to be waived to adult court than White youth and are admitted to adult jails at 1.4 times the rate of White youth.³⁶ Furthermore, there is a high likelihood that they live in a state where youth can be treated as adults, such as California and Texas.

Community-Based Programs

Current law provides funding and technical support for a wide array of community-based prevention programs and alternatives to detention that protect the well-being of youth and the safety of communities. JJDP Title II formula grants fund state and local prevention and alternatives to detention efforts while Title V block grants fund delinquency prevention programs. Though current law reflects a commitment to community-based programs, gaps still remain.

The current law lacks strong support for culturally and linguistically competent community-based prevention programs and alternatives to detention. While Title II formula grants designate support for some community-based programs that work with limited-English-proficient youth and their families, neither Title II formula grants nor Title V block grants specifically designate support for community-based programs that offer culturally competent services. Anecdotal evidence suggests that providing culturally competent services is critical to successfully keeping youth out of the juvenile justice system. Moreover, practitioners agree that not enough programs are available for all

Latinos who need specialized, vital services. Without a specific provision in the law, many youth miss out on access to services that could prevent them from having contact with the justice system or moving deeper into the system.

Latino Community-Based Organizations Tackling Prevention

The Mexican American Community Services Agency is a community-based organization in San Jose, California whose bilingual and bicultural staff provide culturally and linguistically competent services in program areas ranging from education to social services throughout Santa Clara County.* For example, its gang intervention program, *Ollin*, uses the Joven Noble curriculum, which emphasizes the cultural heritage of its Latino participants. It teaches youth about the values of their ancestors and the meaning of *palabra*—keeping one’s word and living with integrity—to help youth leave gangs or prevent them from joining one. As part of their gang prevention and intervention efforts, MACSA also educates parents, many of whom are overworked or unfamiliar with gang culture, about gang prevention. Approximately 85% of youth who enter the *Ollin* program graduate.†

In Santa Cruz County, California, the juvenile justice system implemented new practices and built new relationships to make itself more culturally and linguistically competent and better able to serve Latino youth and families. The probation office now offers more evening and weekend hours to accommodate working families and aims to have a Spanish-speaking staff member present at every stage of the juvenile justice process. The juvenile justice system also partners with a community-based agency to provide services explaining court processes and expectations to families of Latino youth. As a result of these and other culturally and linguistically competent practices, the rate at which Latinos are represented in detention dropped from 1.9 Latinos for every White youth in 1998 to 1.4 Latinos in 2005.‡

* Learn more about MASCA at www.macsa.org.

† Mario Ozuna-Sanchez (Director of Youth and Family Services, MACSA), in discussion with the author, April 8, 2010.

‡ Stephen Gies, Marcia Cohen, and Francisco Villarruel, “Chapter 4: Intervention,” in *DMC Technical Assistance Manual*, 4th ed. (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, July 2009), 4-59–4-64, http://www.ncjrs.gov/html/ojjdp/dmc_ta_manual/dmch4.pdf (accessed April 16, 2010).

Evidence-Based Practices

Current JJDP law prioritizes awarding Title V delinquency prevention block grant funds to applicants who use evidence-based practices (EBPs) and data-driven prevention programs and strategies. It also gives preference in awarding Title II state formula grant funds to organizations using practices supported by research. These components aim to ensure that funds go to programs that will effectively serve youth involved in or at risk of becoming involved in the juvenile justice system. In practice, however, gaps in the law exist.

CBOs serving Latino youth face a “chicken and egg” problem when it comes to using EBPs. Few existing EBPs have been tested and proven to work well specifically for Latino youth, and most CBOs lack the technical skills to adapt existing EBPs to Latinos’ needs or the capacity to document current programs as EBPs. At the same time, however, there is little federal support to help Latino-serving CBOs develop or implement EBPs that serve their population. As a result, many CBOs are locked out of using EBPs, even though studies in fields such as health show that using EBPs targeted specifically to Latino youth is an important and highly successful strategy.³⁷ CBOs will likely face increasing

challenges accessing funds as the use of evidence-based practices becomes a more important standard criterion for the receipt of federal funds. Moreover, this will likely have a negative impact on Latino youth at risk of becoming or currently involved in the juvenile justice system. If CBOs face challenges accessing funds, they may have to cut services that are vital to Latino youth, and they will likely not be able to implement EBPs that would improve services for Latino youth.

Funding

JJDPAs funding levels have dropped significantly since fiscal year 2002: Title II formula grants were appropriated at \$88.8 million in 2002 and \$75 million in 2009, and Title V block grants were appropriated at \$94.3 million in 2002 and \$62 million in 2009. In 2010, President Obama requested just \$162 million for all programs under JJDPAs, an \$81.7 million drop since 2004.* As a result of decreased funding, juvenile justice systems and CBOs face increasing challenges serving Latino youth while need remains great.

The Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009 (S. 678)/The Juvenile Justice and Delinquency Prevention Reauthorization Act of 2010 (H.R. 6029)

Abbreviated Table of Contents

Title I—Findings and Declaration of Purpose

Title II—Juvenile Justice and Delinquency Prevention

Sec. 205. State Plans [state formula grants]

Sec. 210. Grants for Youth and Family Serving Organizations

Sec. 211. Incentive Grants for State and Local Programs

Sec. 212. Authorization of Appropriations

Title III—Incentive Grants for Local Delinquency Prevention Programs [Title V in current law]

Sec. 303. Authorization of Appropriations

Title IV—PRECAUTION Act

Title V—Miscellaneous Provisions

REAUTHORIZATION EFFORTS IN THE 111TH CONGRESS

Reauthorization of the Juvenile Justice and Delinquency Prevention Act presents a significant opportunity to not only protect and strengthen communities but also positively shape the future of thousands of youth. In particular, reducing disproportionate minority contact, protecting more youth from contact with adults in lockups, strengthening community-based delinquency prevention programs and alternatives to detention, and improving the quantity and accessibility of evidence-based practices for Latinos are important policy goals.

On December 17, 2009, the Senate Judiciary Committee passed S. 678, the “Juvenile Justice and Delinquency Prevention Act of 2009,” which included a number of provisions that address issues for Latino youth by requiring the following:

* These figures have not been adjusted for inflation.

▪ **Strengthen the requirement to reduce disproportionate minority contact.**

- States would be required to follow a series of five steps to identify and reduce the disproportionate contact of minority youth with the juvenile justice system. With this framework, states would have the guidance they need to take measurable and accountable steps to reduce DMC for Latinos throughout the juvenile justice system.
- Jurisdictions nationwide would be required to collect data on the ethnicity of youth, disaggregated from race, at different points of contact with the juvenile justice system. As a result, Latino youth would expressly be included in efforts to reduce disproportionate minority contact. Moreover, all jurisdictions would have the basic data necessary to create, implement, and assess targeted policies and procedures to reduce DMC for Latino youth.

▪ **Protect more youth from the dangers of adult jails and lockups and contact with adult inmates.**

- The current law's separation and adult jail and lockup requirements would be extended to youth awaiting legal processes in the criminal justice system. For the first time, federal law would prohibit youth from being held prior to trial in adult jails or lockups, or, in such exceptional situations, to have contact with adult inmates. This would protect all pretrial youth in the criminal justice system from the proven dangers of being held in adult jails or lockups and having contact with adult inmates.
- By modifying the definition of adult inmate to allow states to choose to house youth convicted as adults in juvenile facilities, states would be able

to follow best practices and protect youth tried as adults without risking the loss of federal funding.

▪ **Strengthen support for community-based delinquency prevention programs and alternatives to detention.**

- States would be required to develop plans to provide alternatives to detention—with the option to use community-based organizations—that are culturally and linguistically competent. They would also have to develop various plans to support CBOs providing delinquency prevention services and alternatives to detention, though such services would not be required to be culturally competent. Final reauthorization legislation should require that these services be culturally competent, but as currently written, the bill emphasizes that states should use community-based services, helping youth avoid delinquent behavior, contact with the justice system, and the dangers of incarceration.
- A new grant program—Grants for Youth and Family Serving Organizations (Title II)—would support community organizations that provide programs for the prevention, control, or reduction of juvenile delinquency. This would increase the services available to youth at risk of having contact with the juvenile justice system or currently involved in the system.
- Another new program—Incentive Grants for State and Local Programs (Title II)—would include supporting plans to divert youth with mental health or substance abuse problems to community-based treatment options. Further, it would support trainings on how to divert youth in a culturally competent manner. This

would provide a specific but significant subpopulation of youth from having contact with the detention system.

▪ **Increase the use of evidence-based practices.**

- States would be required to create a plan to improve the coordination and use of evidence-based and promising practices with other programs run by CBOs and local governments. States would also have to create a plan to implement an evidence-based mental health and substance abuse screening process for youth held in secure detention.
- Two new grant programs emphasizing evidence-based or evidence-informed practices would be created under Title II. Community organizations funded through Grants for Youth and Family Serving Organizations would be required to use evidence-based or evidence-informed practices. State and local governments funded by Incentive Grants for State and Local Programs would also be required to use evidence-based practices or provide findings or studies that support the effectiveness of practices that are not certified as evidence-based. Moreover, they could use these funds to increase the use of evidence-based and promising prevention and intervention practices. While the Grants for Youth and Family Serving Organizations would be more effective if it specifically supported the growth of EBPs, the provision in both grants to fund promising practices or practices supported by evidence will allow programs that do not have good access to certified EBPs to receive support for the vital services they provide to youth.

▪ **Increase overall funding levels.**

- Appropriations for funding would be increased to help jurisdictions extend the recent decline in juvenile crime rates. It would enable jurisdictions to broaden the programs and services they provide to ensure that Latino youth have access to culturally and linguistically competent services. It would also increase the capacity of community-based organizations to provide services such as alternatives to detention, which in some jurisdictions cost up to 15 times less than incarcerating youth.

On July 30, 2010, Representatives Ellison and Scott introduced the “Juvenile Justice and Delinquency Prevention Reauthorization Act of 2010” (H.R. 6029). The bill addressed issues important to the Latino community in ways nearly identical to S. 678. However, it differs from the Senate bill on two major Latino issues. Specifically, the House bill would:

▪ **Further strengthen the requirement to reduce disproportionate minority contact.**

Like S. 678, H.R. 6029 establishes a series of five steps that all states must follow to identify and reduce the disproportionate contact of minority youth with the juvenile justice system. In addition, the House bill more specifically requires juvenile justice stakeholders to participate in local coordinating bodies that oversee DMC reduction efforts and requires jurisdictions to analyze ethnic disparities at eight named points of contact with the juvenile justice system. With such increased specificity, jurisdictions would have stronger guidance on how to reduce the disproportionate contact that Latinos have with the juvenile justice system.

▪ **Require states to develop plans for providing culturally and linguistically competent community-based services to youth in contact with or at risk of becoming in contact with the juvenile**

justice system. This requirement, which is not included in S. 678, emphasizes that states should use community-based services to help youth avoid delinquent behavior, contact with the justice system, and the dangers of incarceration. Moreover, the use of culturally and linguistically competent practices will enable youth to be better served.

RECOMMENDATIONS FOR THE 112TH CONGRESS

While S. 678 and H.R. 6029 would make many improvements to current law for Latino youth, they still lack specific policies that would directly address several critical policy concerns. NCLR makes the following recommendations to perfect these pieces of legislation:

- **Require that data on the language ability and English proficiency of youth be collected as part of DMC reduction strategies.** This would help make visible the scope of the cultural and linguistic needs of Latino youth in the juvenile justice system. It would guide jurisdictions in implementing culturally and linguistically competent policies and procedures to help reduce the contact that Latinos have with the juvenile justice system.
- **Require that all state plans for community-based prevention services and alternatives to detention incorporate components of cultural and linguistic competency that are responsive to the communities they serve.** H.R. 6029 contains a provision requiring states to develop plans for providing culturally and linguistically competent community-based services. However, both pieces of legislation should require community-based prevention services and alternatives to detention to be culturally and linguistically competent. Practitioners agree that the authentic connection this creates for youth enables them to be better served.

- **Provide funding for the use of culturally and linguistically competent community-based delinquency prevention programs and alternatives to detention.** State formula grant funding (Title II) should specifically fund the implementation of state plans to provide community-based prevention services and alternatives to detention. Funding for Incentive Grants for Local Delinquency Prevention (Title II) and Grants for Youth and Family Serving Organizations (Title II) should ensure that Latino youth have equal access to culturally and linguistically competent prevention services and alternatives to detention provided by CBOs.

- **Include incentives for documenting and establishing evidence-based practices for programs serving Latino youth. Specifically:**
 1. Fund a survey of current EBPs that determines which have been specifically tested for Latino youth and what gaps exist in the literature.
 2. Fund research on potential EBPs developed and tested specifically for Latino youth.
 3. Fund research on the efficacy of adapting existing EBPs to the cultural and linguistic needs of Latino youth.
 4. Support research partnerships between community-based organizations and universities, other research institutions, and program evaluators to study and document the effectiveness of programs that CBOs already run.

- **Provide technical assistance to CBOs to help them adapt current EBPs to work for Latino youth or to administer new EBPs.** Technical assistance could include tool kits or consultants that guide CBOs through the steps of adapting or implementing EBPs for Latinos. With access to best practices and expert advice on topics such as how

to collect data or modify specific parts of current EBPs to be culturally competent while remaining faithful to the research model, CBOs will have a greater capacity to implement EBPs.

CONCLUSION

Congress's failure to enact JJDP A reauthorization legislation—now four years overdue—impacts the daily lives of Latino youth. For too long, juvenile justice policy has been driven by negative emotions and fear instead of research and real-world experience, which has led to excessively punitive measures that are more harmful than helpful to Latino youth and communities. The 112th Congress has an opportunity to reauthorize the JJDP A by taking a rational approach to juvenile justice reform. In particular, Congress must aim to reduce the overrepresentation of Hispanic youth in the system. It must protect youth from having contact with adults in jails and lockups, invest in culturally competent community-based prevention services and alternatives to detention, and support evidence-based practices that specifically serve Latino youth. Doing so would ensure that fewer Latino youth have contact with the system and that those who do receive better rehabilitative services. To protect communities and positively shape the future of thousands of youth, Congress must take action in 2011 to reform the juvenile justice system through a strong reauthorization of JJDP A that includes the recommendations made in this paper.

ENDNOTES

- 1 Benjamin Adams, "Hispanic Juvenile Victims and Offenders" (presentation, 2008 American Society of Criminology Conference, St. Louis, November 14, 2008).
- 2 José Saavedra, *Just the Facts: A Snapshot of Incarcerated Hispanic Youth* (Washington, DC: National Council of La Raza, March 2010).
- 3 NCLR calculation using U.S. Census Bureau, "Table P12: Sex by Age" and "Table P12H: Sex by Age (Hispanic or Latino)," *Census 2000*. Washington, DC, 2000.
- 4 NCLR calculation using U.S. Census Bureau, "Table B01001: Sex by Age" and "Table B01001I: Sex by Age (Hispanic or Latino)," *2008 American Community Survey*. Washington, DC, 2009.
- 5 California Department of Justice, *Juvenile Justice in California 2002*, <http://ag.ca.gov/cjsc/publications/misc/jj02/DataTables.pdf> (accessed August 30, 2010), Table 12; and California Department of Justice, *Juvenile Justice in California 2008*, <http://ag.ca.gov/cjsc/publications/misc/jj08/preface.pdf> (accessed August 30, 2010), Table 33.
- 6 California Department of Justice, *Juvenile Justice in California 2002*, Table 1; and California Department of Justice, *Juvenile Justice in California 2008*, Table 1.
- 7 Charles Puzanchera, *Juvenile Arrests 2008*. Office of Juvenile Justice and Delinquency Prevention. Washington, DC, 2009, <http://www.ncjrs.gov/pdffiles1/ojjdp/228479.pdf> (accessed March 23, 2010), 1.
- 8 California Department of Justice, *Juvenile Justice in California 2008*, Table 1.
- 9 National Center for Juvenile Justice, *Different from Adults: An Updated Analysis of Juvenile Transfer and Blended Sentencing Laws, With Recommendations for Reform* (Pittsburgh: National Center for Juvenile Justice, November 2008), <http://www.modelsforchange.net/publications/181> (accessed March 11, 2010), 5.
- 10 Edwin Desamour (Founder and President, Men in Motion in the Community, Philadelphia), in discussion with the author, April 12, 2010.
- 11 Mario Ozuna-Sanchez (Director of Youth and Family Services, Mexican American Community Services Agency, Inc., San Jose), in discussion with the author, April 16, 2010.
- 12 Sybille Damas (Neighborhood and Family Development Vice President, Congreso de Latinos Unidos, Philadelphia), in discussion with the author, April 15, 2010.
- 13 Mike Rodriguez (Violence Prevention Director, Enlace Chicago, Chicago), in discussion with the author, March 9, 2010; Joella Brooks (Deputy Executive Director, Southwest Keys Programs, Austin), in discussion with the author, March 16, 2010; Mario Ozuna-Sanchez, in discussion with the author, April 8, 2010; and National Council of La Raza, "Overcoming Language and Cultural Barriers Using Evidence-Based Practices" (Washington, DC: National Council of La Raza, 2008), http://www.nclr.org/index.php/publications/overcoming_language_and_cultural_barriers_using_evidence-based_practices/ (accessed March 10, 2010), 10.
- 14 Joella Brooks, in discussion with the author, March 16, 2010.
- 15 Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (Washington, DC: Justice Policy Institute, November 2006), http://www.cfj.org/Pdf/116-JPI008-DOD_Report.pdf (accessed February 25, 2010), 10–11.
- 16 Neelum Arya et al., *America's Invisible Children: Latino Youth and the Failure of Justice* (Washington, DC: Campaign for Youth Justice and National Council of La Raza, 2009), 58.
- 17 Barry Holman and Jason Ziedenberg, *The Dangers of Detention*, 7.
- 18 U.S. Department of Justice, *2004–2005 Report to Congress: Title V Community Prevention Grants Program*. Office of Juvenile Justice and Delinquency Prevention. Washington, DC, March 2008, <http://www.ncjrs.gov/pdffiles1/ojjdp/215559.pdf> (accessed April 30, 2010).
- 19 Blueprints for Violence Prevention, "Functional Family Therapy (FFT)," Center for the Study and Prevention of Violence, University of Colorado at Boulder, <http://www.colorado.edu/cspv/blueprints/modelprograms/FFT.html> (accessed April 30, 2010).
- 20 Office of Juvenile Justice and Delinquency Prevention, "Operation New Hope," <http://www.ojjdp.ncjrs.gov/mpg/mpgProgramDetails.aspx?ID=599> (accessed September 21, 2010).
- 21 For example, just four out of the 11 approved evidenced-based programs for Blueprints for Violence Prevention included Latinos in their sample. See Blueprints for Violence Prevention, "Model Programs," <http://www.colorado.edu/cspv/blueprints/modelprograms.html> (accessed April 30, 2010).
- 22 Some researchers suggest that EBPs cannot be considered effective for specific populations if they are not tested on those populations. Guillermo Bernal and María R. Scharró-del-Río, "Are empirically supported treatments valid for ethnic minorities? Toward an alternative approach for treatment research," *Cultural Diversity and Ethnic Minority Psychology* 7, no. 4 (November 2001): 328–342; and Francisco Villarruel (University Outreach and Engagement Fellow and Professor of Family and Child Ecology, Michigan State University), in discussion with the author, May 14, 2010.

- 23 Mario Ozuna-Sanchez, in discussion with the author, April 16, 2010; Edwin Desamour, in discussion with the author, April 12, 2010; and Sybille Demas, in discussion with the author, April 15, 2010.
- 24 U.S. Department of Justice, *2002 Report to Congress: Title V Community Prevention Grants Program*. Office of Juvenile Justice and Delinquency Prevention. Washington, DC, 2004, <http://www.ncjrs.gov/html/ojjdp/202019/index.html> (accessed April 30, 2010), 31.
- 25 James Bell and Laura Johns Ridolfi, *Adoration of the Question: Reflections on the Failure to Reduce Racial and Ethnic Disparities in the Juvenile Justice System* (San Francisco: The W. Hayward Burns Institute, December 2008), http://www.burnsinstitute.org/downloads/BI%20Adoration%20of%20the%20Question_2.pdf (accessed March 25, 2010), 14; and unpublished calculations by The W. Haywood Burns Institute using Interactive State Data Map, http://www.burnsinstitute.org/state_map.php (accessed September 23, 2010).
- 26 James Bell et al., *The Keeper and the Kept: Reflections on Local Obstacles to Disparities Reduction in Juvenile Justice Systems and a Path to Change* (San Francisco: The W. Haywood Burns Institute, 2009), <http://www.burnsinstitute.org/downloads/BI%20Keeper%20Kept.pdf> (accessed February 17, 2010), 16–18.
- 27 Judith Cox and James Bell, “Addressing Disproportionate Representation of Youth of Color in the Juvenile Justice System,” *Journal of the Center for Families, Children, and the Courts* 3 (2001): 31–43, http://sccounty01.co.santa-cruz.ca.us/prb/jdai/6.1_Addressin%20DMC%20Article.pdf (accessed September 22, 2010), 36.
- 28 Neelum Arya et al., *America’s Invisible Children*, 31.
- 29 Ibid., 58.
- 30 Mark Mather and Patricia Foxen, *America’s Future: Latino Well-Being in Numbers and Trends* (Washington, DC: National Council of La Raza, 2010), 17.
- 31 NCLR calculations using Office of Juvenile Justice and Delinquency Prevention, “National Juvenile Court Data Archive,” <http://www.ojjdp.ncjrs.gov/ojstatbb/njcda/asp/guide.asp> (last accessed June 8, 2010).
- 32 Francisco Villarruel et al., *¿Donde Está la Justicia?: A Call to Action on Behalf of Latino and Latina Youth in the U.S. Justice System* (Washington, DC: Building Blocks for Youth and Michigan State University Institute for Children, Youth, and Families, July 2002), <http://www.buildingblocksforyouth.org/Full%20Report%20English.pdf> (accessed April 13, 2010), 17.
- 33 Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America* (Washington, DC: The Campaign for Youth Justice, November 2007), <http://www.modelsforchange.net/publications/211> (accessed March 30, 2010), 4.
- 34 Campaign for Youth Justice, *Jailing Juveniles*, 24.
- 35 Neelum Arya et al., *America’s Invisible Children*, 23–25.
- 36 Ibid., 41, 53.
- 37 Glenn Flores et al., “A Randomized, Controlled Trial of the Effectiveness of Community-Based Case Management in Insuring Uninsured Latino Children,” *Pediatrics* 116 (2005): 1433–1441; Antonia Villarruel, John B. Jemmott, and Loretta S. Jemmott, “A Randomized Controlled Trial Testing an HIV Prevention Intervention for Latino Youth,” *Archives of Pediatric and Adolescent Medicine* 160 (August 2006): 776; and Kia L. Davis et al., “Teaching How, Not What: The Contributions of Community Health Workers to Diabetes Self-Management,” *The Diabetes Educator* 33 (2007): 208.