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Subcommittee on Commerce, Justice, Science, and Related Agencies  
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Thank you, Chairman Mollohan and members of the Subcommittee on Commerce, Justice, Science, and Related Agencies for inviting me to testify before you today on the proposed 2011 budget for the Department of Justice (DOJ). My name is Tracy Velázquez, and I am the Executive Director of the Justice Policy Institute (JPI), a Washington, D.C.-based think tank dedicated to reducing society's reliance on incarceration and promoting effective and just solutions to social problems. The President's proposed FY2011 DOJ budget asks for \$29.2 billion. This is on top of \$4 billion provided to DOJ through the American Reinvestment and Recovery Act (ARRA), much of which will continue to fund activities through 2011 and beyond. Although the budget has some specified funding for intervention, treatment, and Second Chance Act re-entry programs that may help slow the revolving door back into prison, it also allocates over half a billion dollars to hire or retain police officers through the Byrne Justice Assistance Grants (Byrne Grants) and Community Oriented Policing Services (COPS), and will increase federal prison spending through the Bureau of Prisons (BOP). The proposed budget also cuts funding for critical juvenile justice and delinquency prevention programs.

I am here today to encourage you to consider the impact of the proposed Department of Justice (DOJ) budget on state and local budgets, incarceration rates, public safety, and individual lives now and in the future. We believe, and research has shown, that positive investments in people, rather than more spending on prisons and policing, are what will maintain safety in the long run. As it stands, this budget is likely to increase state incarceration rates and costs, maintain the disproportionate and harmful impact of the justice system on communities of color, and fail to create the stronger communities that will result in sustained improvements in public safety.

Faced with substantial budget deficits, states are looking for ways to reduce their prison populations while protecting public safety. This budget does not support these critical efforts. As described below, the proposed pattern of funding will likely result in increased costs to states for incarceration well above the increased funding for law enforcement, with marginal public safety benefits. Research shows that the most cost-effective ways to increase public safety, reduce the number of people in prisons and jails, and save money, are to invest in preventative and community-based programs and policies that positively impact youth and adults and create more substance use and mental health treatment services in the community. Given space limitations, I will primarily address adult justice issues in my testimony today. Please know that JPI is a member of the National Juvenile Justice and Delinquency Prevention Coalition, and we support its budget recommendations related to juvenile justice and specifically the Office of Juvenile Justice and Delinquency Prevention and the Juvenile Justice and Delinquency Prevention Act.

**Redirect money from policing to treatment.** Under the Administration’s proposal, Byrne Grants would receive over \$500 million in federal funds in FY2011 for law enforcement activities, including many that are shown to increase prison populations. This is in addition to over \$2 billion in Byrne Grants awarded through ARRA, which can be spent over a four-year period and are not included in the FY11 budget. Reinvigorating this program is likely to further increase the prison population and associated costs to states, without a significant drop in crime.

Byrne grants can be used for a number of different purposes, including multi-jurisdictional task forces, prevention and education, technology and evaluation, and prosecution. While grants are available for all of these purpose areas, recent history shows that most of the money goes to law enforcement, rather than prevention, drug treatment, or community services. In particular, this funding has often been used to create drug task forces. Recent research shows that increasingly these task forces have been making arrests for misdemeanor offenses rather than felonies, as was their original intent. At the same time, a greater percentage of these arrests are resulting in a prison sentence, rather than probation or referrals to treatment.<sup>1</sup> If this funding increases, the likely result will be more people in prison, many of whom would benefit more from access to drug treatment.

The Administration has requested another \$690 million for law enforcement services, including \$600 million to hire and train more police under the Community Oriented Policing Services (COPS) initiative. This is despite evidence from the U.S. Government Accountability Office that COPS does little to improve public safety. Specifically, in 2005, the GAO found that other factors accounted for the majority of the decrease in crime between 1993 and 2000.<sup>2</sup> At the same time, the hiring of additional law enforcement personnel through COPS grants was partially to blame for the 45 percent growth in the prison population over 7 years in the 1990s and the 76 percent increase in state corrections spending.<sup>3</sup> While crime fell dramatically during this time, prisons were not filled with people convicted of violent offenses, but rather drug offenses. Research shows that localities that spend more on law enforcement have higher drug imprisonment rates than localities that spend less.<sup>4</sup> This emphasis on the “supply side” of the drug problem has not been successful in reducing drug use: the rate of current illicit drug use among persons aged 12 or older in 2007 (8 percent) has remained relatively stable since 2002.<sup>5</sup>

The effect of federal funding for increased police through COPS in the 1990s had a significant impact on communities of color, which are often a target for enforcement and incarceration. Reviving this program will likely increase the disproportionate contact communities of color

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<sup>1</sup> William Rhodes, Christina Dyou, Meg Chapman, Michael Shively, Dana Hunt, Kristen Wheeler, *Evaluation of the Multijurisdictional Task Forces (MJTFs), Phase II: MJTF Performance Monitoring Guide* (2009) [www.ncjrs.gov/pdffiles1/nij/grants/228942.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/228942.pdf)

<sup>2</sup> United States Government Accountability Office. “COPS Grants Were a Modest Contributor to Declines in Crime in the 1990s (October 2005).” [www.gao.gov/highlights/d06104high.pdf](http://www.gao.gov/highlights/d06104high.pdf)

<sup>3</sup> U.S. Department of Justice, Bureau of Justice Statistics, *Corrections Populations at a Glance*, <http://ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm>; National Association of State Budget Officers, *State Expenditure Reports*, [www.nasbo.org](http://www.nasbo.org)

<sup>4</sup> Phil Beatty, Amanda Petteruti, and Jason Ziedenberg, *The Vortex: The Concentrated Racial Impact of Drug Imprisonment and the Characteristics of Punitive Counties* (Washington, D.C.: Justice Policy Institute, 2007).

<sup>5</sup> Substance Abuse and Mental Health Services Administration, Office of Applied Studies (2008). *Results from the 2007 National Survey on Drug Use and Health: National Findings*. Rockville, MD.

have with the criminal justice system due to concentrated policing in neighborhoods with a high Latino and/or African American composition.

While focusing resources on law enforcement rather than prevention or treatment is likely to result in increased prison populations without necessarily improving public safety, investing in treatment in the community has a greater positive impact on public safety. A Washington State Institute of Public Policy study found that for every dollar invested in drug treatment in the community, there is a savings of \$18 in crime-related costs. Comparatively, investing a dollar in incarceration, yields only 37 cents in returns related to public safety.<sup>6</sup> Prioritizing treatment over incarceration benefits everyone and will lead to reduced costs in the future rather than more.

**Fund substance abuse and mental health treatment through health, not justice systems.**

For FY2011 the Administration combined previous drug and mental health court funding into one section, adding problem solving courts to the grant program. These courts will receive \$57 million in funding, the same level as the FY10 enacted budget for the individual grants.

The federal government's interest in treatment as an option for people with substance abuse or mental health problems who are involved in the criminal justice system is a step toward developing a public health response to drug use and supporting alternatives to incarceration for people with low-level offenses. However, these courts are still a long way from a public health approach. Some evidence indicates that specialty courts may even "widen the net" of people involved in the criminal justice system -- people who previously may have been given diversion or been released without charge for certain offenses, may now be entwined in the system due to the "problem solving court" option available to judges. Furthermore, some individuals who would not have been incarcerated at all are redirected to these specialty courts, which use sanctions that include jail time for not meeting the terms of the court. Our prisons are already filled with people with substance abuse and mental health problems; specialty courts for these people may exacerbate the problem.<sup>7</sup> In addition, drug and specialty courts also tend to be very expensive, and may result in a false sense that addiction and mental illness can be satisfactorily addressed by the justice system.

Rather than perpetuating a practice that ensnares people battling addiction or mental health problems in the justice system, offering more diversion and treatment outside the criminal justice system would help people receive the right services and likely prevent their contact with the criminal justice system in the future. Despite continuing unmet treatment needs -- 2008 NSDUH data show that over one third (39.5 percent) of the 2.5 million Americans with co-occurring serious mental illness and substance abuse disorder received no treatment at all -- funding for community mental health services block grants has been flat or decreasing. The number of people served by State mental health authorities is growing, and with the current economic downturn will likely rise further. There is a modest increase in substance abuse prevention and treatment in the SAMSHA budget, but not enough to truly tackle this issue. And the President's budget also calls for a decrease in the SAMSHA Jail Diversion program that successfully diverted over 3,300 people from

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<sup>6</sup> Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb. 2001. *The comparative costs and benefits of programs to reduce crime*. Olympia: Washington State Institute for Public Policy.

<sup>7</sup> Amanda Petteruti and Nastassia Walsh, *Jailing Communities: The Impact of Jail Expansion and Effective Public Policy Strategies* (Washington, DC: Justice Policy Institute, 2008). <http://www.justicepolicy.org/content-hmID=1811&smID=1581&ssmID=73.htm>

incarceration to community services. Shifting resources towards treatment and prevention will provide far greater long term public safety benefits at less cost, and will also enable people to live healthier and more productive lives in the future.

**Refuse to fund policies that are ineffective and create barriers to success.** While the federal government has in the past allocated some funding to encourage states to come into compliance with the Sex Offender Registry and Notification Act (SORNA), which is part of the Adam Walsh Act, the institutionalization of this funding through an explicit \$20 million appropriation is “throwing good money after bad.” As a number of reports and studies have highlighted, there is little correlation between keeping children safe from sexual violence and the policies that are contained in SORNA.<sup>8</sup> About 93 percent of sexual assaults of young children are by family members or acquaintances. Additionally, registration, notification, and other policies aimed at people in the community who have a sex offense conviction on their record can reduce public safety by making it hard for them to meet even basic needs such as employment and housing.

Using federal dollars to entice states to come into compliance with SORNA will likely make many state policymakers feel they “must” enact the SORNA provisions of the Adam Walsh Act, particularly if they are also threatened with the loss of Byrne Grant funding if they do not comply. However, these additional funds would only cover a small percentage of what it will cost states to come into compliance with the Adam Walsh Act. As evidenced by there being only one state (Ohio) that has come into compliance with the SORNA, many states are struggling with both the provisions of the Act (including the inclusion of juveniles on the registry and the use of a tier-based system relying on conviction rather than risk, for example) and the costs associated with its implementation.

Expansion of sex offense registries, community notification laws and other punitive policies related to sex offenses will have a marginal impact at best in making children and the general population safer. However, it will increase the number of people who cannot meet their basic needs (housing, employment, etc.), and weaken the foundation on which people achieve positive life outcomes and stay out of prison.

**Fund alternatives and diversion over incarceration.** The Federal Bureau of Prisons (BOP) currently confines more than 200,000 people. The additional \$628 million over last year’s enacted budget for the BOP and judicial security will result in new prisons and more people who rely on the imprisonment of others for their livelihood. Included in the budget is a plan to purchase two new prisons, one of which will be a super-maximum security facility in Illinois for the people currently held at Guantanamo Bay, Cuba.<sup>9</sup> The United States already spends more than \$800 million on federal incarceration.

At the same time that crime rates are at a 30-year low, the U.S. still leads the world in incarceration.<sup>10</sup> States have shown that decreasing their incarceration rates does not necessarily

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<sup>8</sup> Justice Policy Institute, *Registering Harm: How Sex Offense Registries Fail Youth and Communities* (Washington, D.C., 2008) [www.justicepolicy.org](http://www.justicepolicy.org); Tracy Velázquez, *Pursuit of Safety: Sex Offense Policies in the United States* (New York: Vera Institute of Justice, 2008), [www.vera.org](http://www.vera.org)

<sup>9</sup> Kevin Johnson, “2011 budget gives federal prisons \$528M,” *USA Today*, February 4, 2010. [www.usatoday.com/news/washington/2010-02-03-prison-budget\\_N.htm](http://www.usatoday.com/news/washington/2010-02-03-prison-budget_N.htm)

<sup>10</sup> *World Prison Brief*, International Centre for Prison Studies, Kings College, London, U.K., [www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb\\_stats.php?area=all&category=wb\\_poprate](http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php?area=all&category=wb_poprate)

lead to an increase in crime. The requested increase in prisons is not based on crime trends; if Congress uses the money to build more prison beds, it reduces the incentive for the U.S. to reduce the number of people that we incarcerate. Building more prison beds is likely to be a self-fulfilling prophesy: If you build it, they will come. Adding two new prisons and a thousand contract beds to the BOP will lead to higher prison populations and expenses, without significantly improving public safety.

In addition, this infusion of funds is out of step with state efforts to reduce prison populations and cut spending on corrections, and sets a bad example for continued positive investments in intervention, prevention, and alternatives. As evidenced by recent reports by organizations like the Pew Center on the States, states are currently working on innovative ways of reducing the number of people in their prisons and maintaining public safety. While federal officials say there is little they can do to cut prison spending, there are specific options around early release and use of sentencing guidelines; in addition, the inevitable capital expenditures on more new prisons would be far better spent helping build stronger communities and healthier individuals.

The budget proposes only a fraction of the total amount spent on prisons for the Second Chance Act, which helps people leaving prison to successfully re-join communities and stay out of prison. Research shows that nearly two out of every three people released from prison will be re-arrested within three years of release.<sup>11</sup> Most people currently in prison will get out some day. It makes fiscal and logical sense to ensure that once they are out, they never return.

**Invest in strong safe communities, not policing and prison.** As Congress considers how to spend scarce federal dollars to improve public safety, it should remember that the most cost-effective ways to reach that goal are programs and policies that build and strengthen communities. In addition to investing in treatment in the community, Congress should invest more in job programs and training (outside law enforcement and corrections), evidence-based prevention and intervention programs for youth and families, and alternatives to incarceration. Congress should also invest additional money in the Second Chance Act, which will help people leaving prison to stay out of prison and contribute to their communities. Congress should also increase funding for better evaluation, training, and technical assistance so that jurisdictions continue to improve practices and learn more about what really works to reduce crime and incarceration rates.

In the U.S. Department of Education budget, \$210 million is proposed for “Promise Neighborhoods.” Using the Harlem Children’s Zone as inspiration, this program has the potential to produce lasting improvements in communities around the country, through integrated education, health, employment and social services – all of which are tied to reductions in justice involvement. By rejecting overspending on policing and prisons, Congress could fund programs like this at a higher level, improving life trajectories and public safety at the same time.

Through investments in treatment, social and human services, education and jobs instead of incarceration and law enforcement, not only will there be immediate impacts in terms of public safety, dollars spent, and increased employment, there will also be long-lasting effects that will keep communities safe and prosperous for years to come. Thank you.

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<sup>11</sup> Patrick A. Langan and David J. Levin, *Recidivism of Prisoners Released in 1994* (Washington, D.C.: Bureau of Justice Statistics, 2002) [www.ojp.gov/bjs/pub/pdf/rpr94.pdf](http://www.ojp.gov/bjs/pub/pdf/rpr94.pdf)