



Federal Juvenile Justice Issues

Liz Ryan

Campaign for Youth Justice (CFYJ)

March 23, 2009

Campaign for Youth Justice



Dedicated to ending the practice of trying, sentencing, and incarcerating youth in the adult criminal justice system

- National campaign on JJDPA
- State-based campaigns on Transfer
- Multi-strategy approach
- Promote voices of youth, parents & families

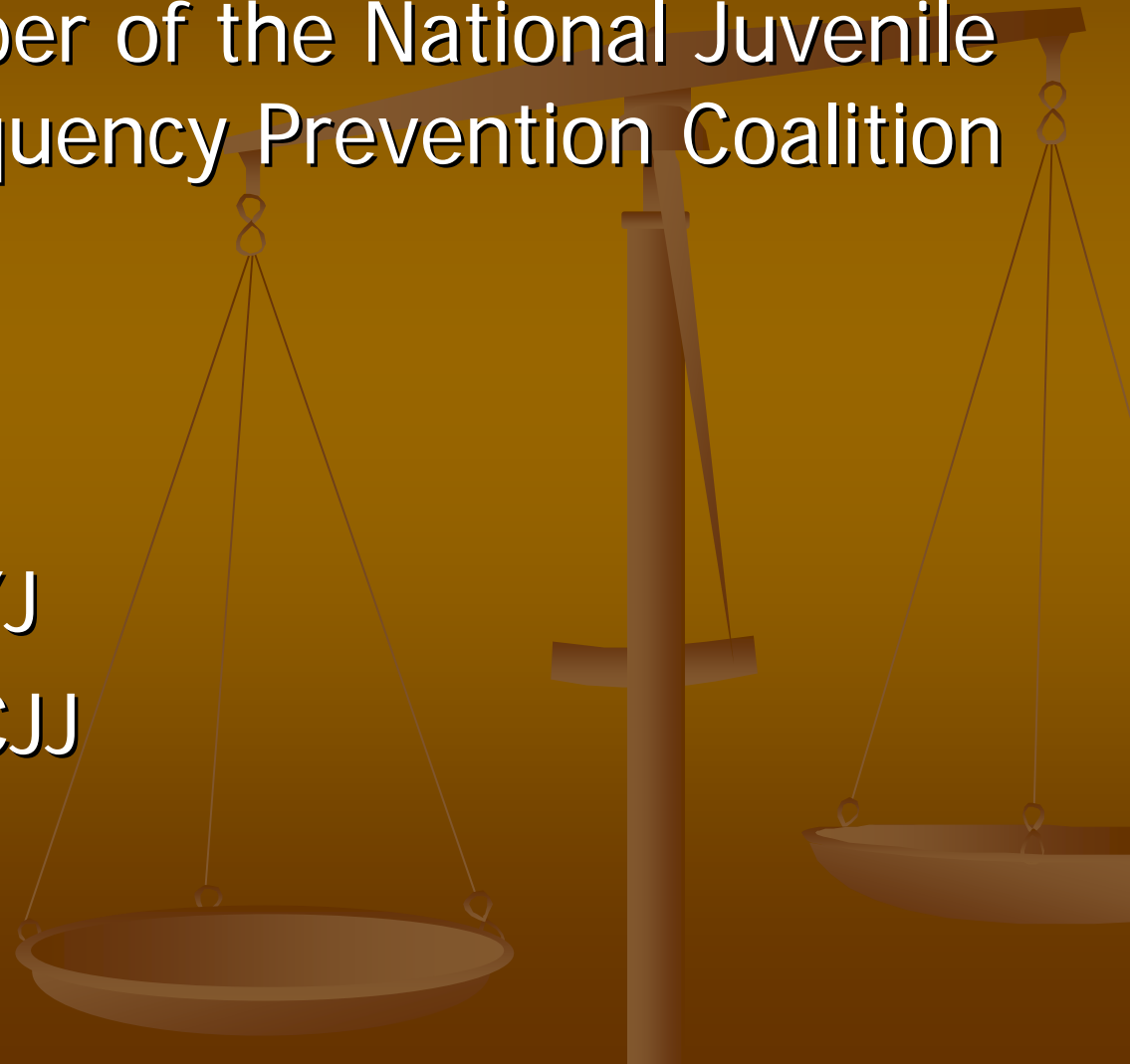
National “JJ” Coalition

CFYJ is a member of the National Juvenile Justice & Delinquency Prevention Coalition (NJJJPC)

Co-Chairs

Erin Davies, CFYJ

Tara Andrews, CJJ



Act 4 Juvenile Justice campaign

350+ national, state and local organizations supporting the reauthorization of the Juvenile Justice & Delinquency Prevention Act (JJDPA)

Act 4 JJ campaign launched in 2007

Co-Chairs

Liz Ryan, CFYJ & Nancy Gannon Hornberger, CJJ

www.act4jj.org

Federal JJ Issues

- JJDPA
- Federal Funding
- OJJDP Administrator
- Transfer to Adult Court
- Engage & involved youth, parents & families



JJDPA



- First written in 1974 the original requirements included:
 - Deinstitutionalization of Status Offenders (DSO)
 - Sight and Sound separation
- 1980 reauthorization added Jail Removal requirement
- 1992 reauthorization added Disproportionate Minority Contact requirement (DMC)
- Reauthorized without serious changes since then
- Last authorized in 2002

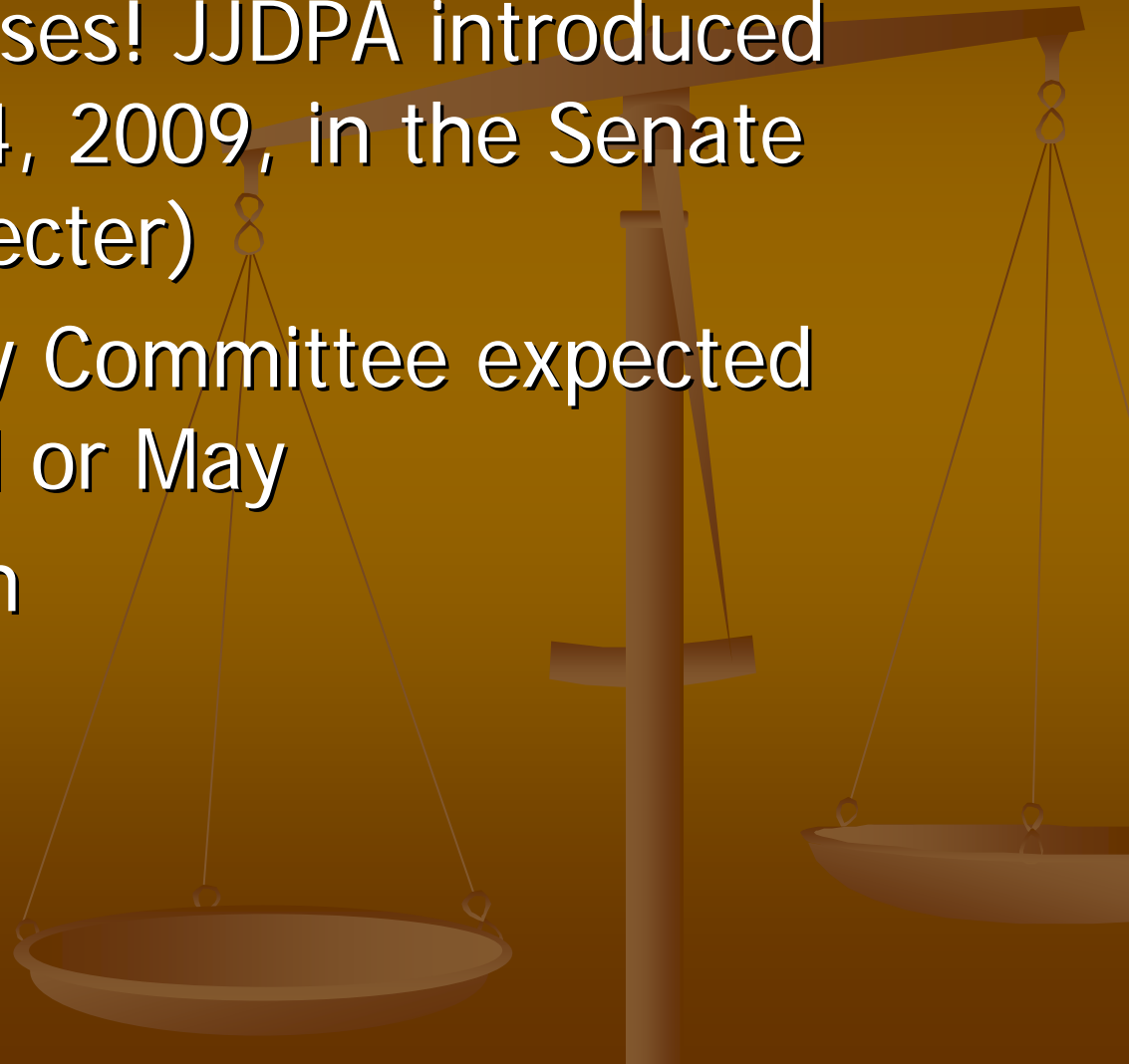
110th Congress action



- 2 House Subcommittee hearings
- 1 Senate Judiciary Committee hearing
- S. 3155 (Leahy-Kohl-Specter) introduced in May, 2009
- S. 3155 “marked up” and approved by Senate Judiciary Committee on July 18, 2009
- Senate Judiciary Committee report
- No House action

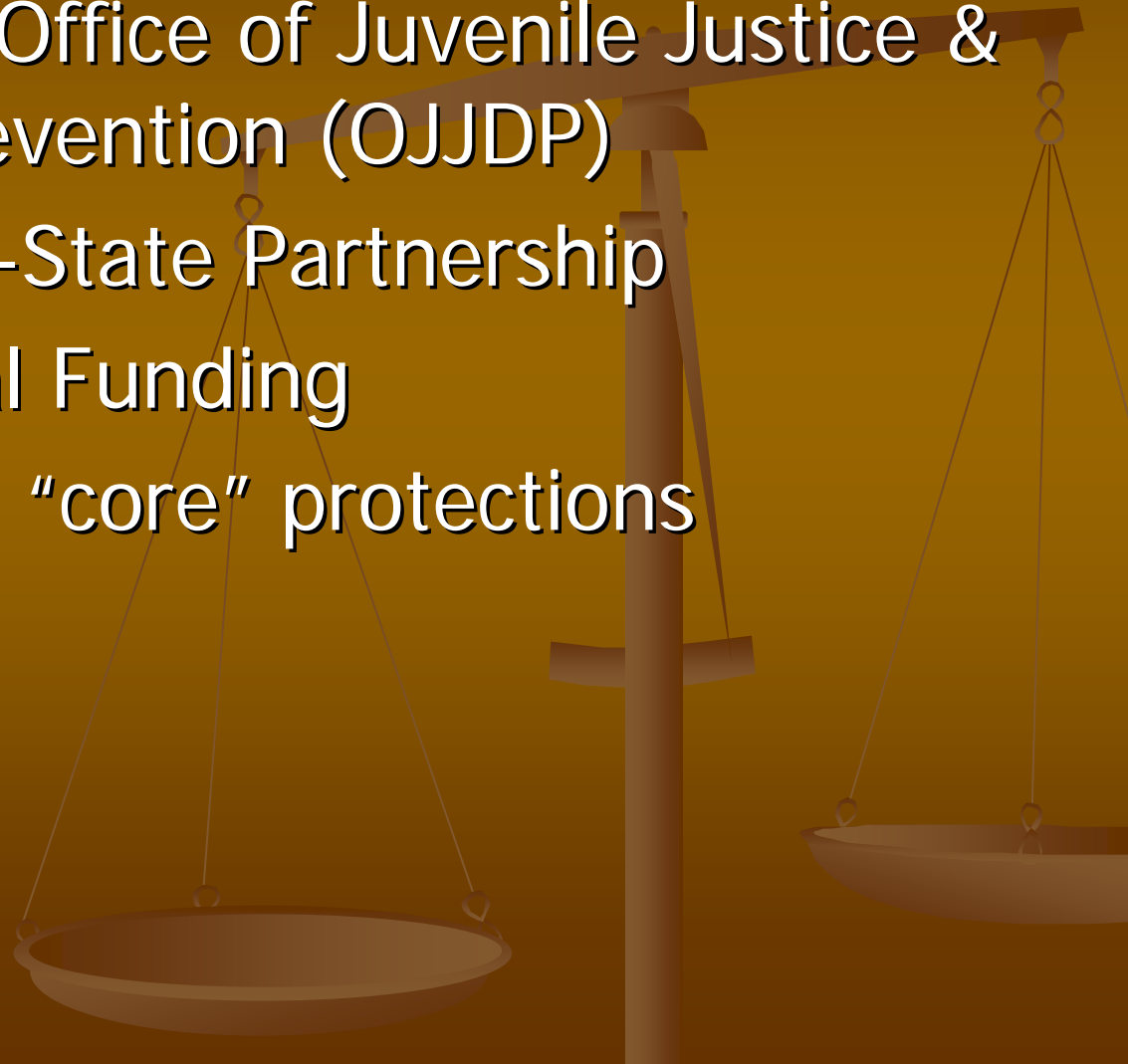
111th Congress action

- Hot off the presses! JJDPA introduced today, March 24, 2009, in the Senate (Leahy-Kohl-Specter)
- Senate Judiciary Committee expected mark up in April or May
- No House action



JJDPA major components

- Establishes the Office of Juvenile Justice & Delinquency Prevention (OJJDP)
- Creates Federal-State Partnership
- Provides Federal Funding
- Sets out federal “core” protections



Four Core Protections In Current Law

■ Jail Removal

- Youth cannot be placed in adult jails or lockups
- Applies pre trial to youth under age 18
- Limited exceptions

■ "Sight and Sound" Separation

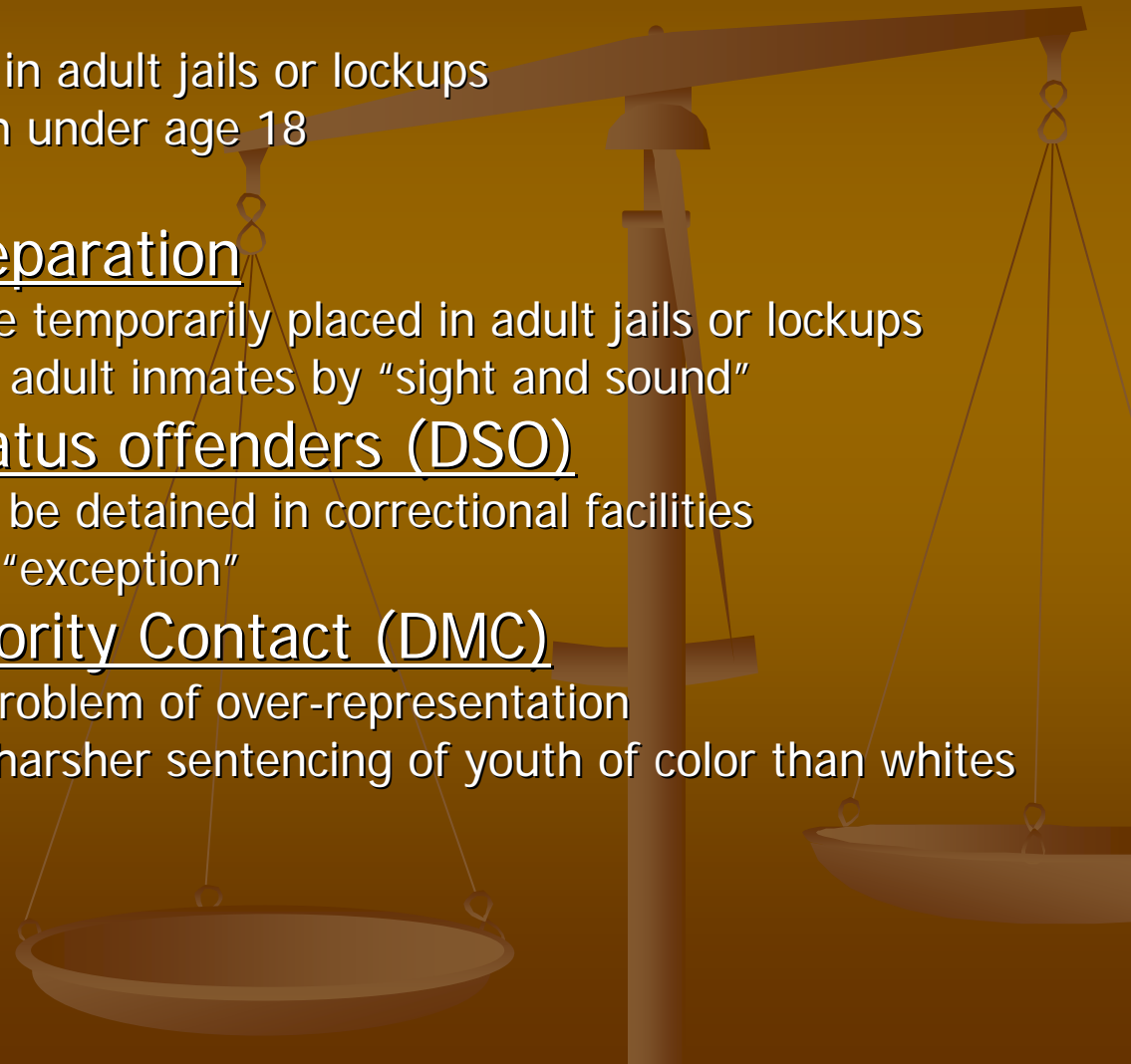
- Applies to youth who are temporarily placed in adult jails or lockups
- Must be separated from adult inmates by "sight and sound"

■ De-institutionalize status offenders (DSO)

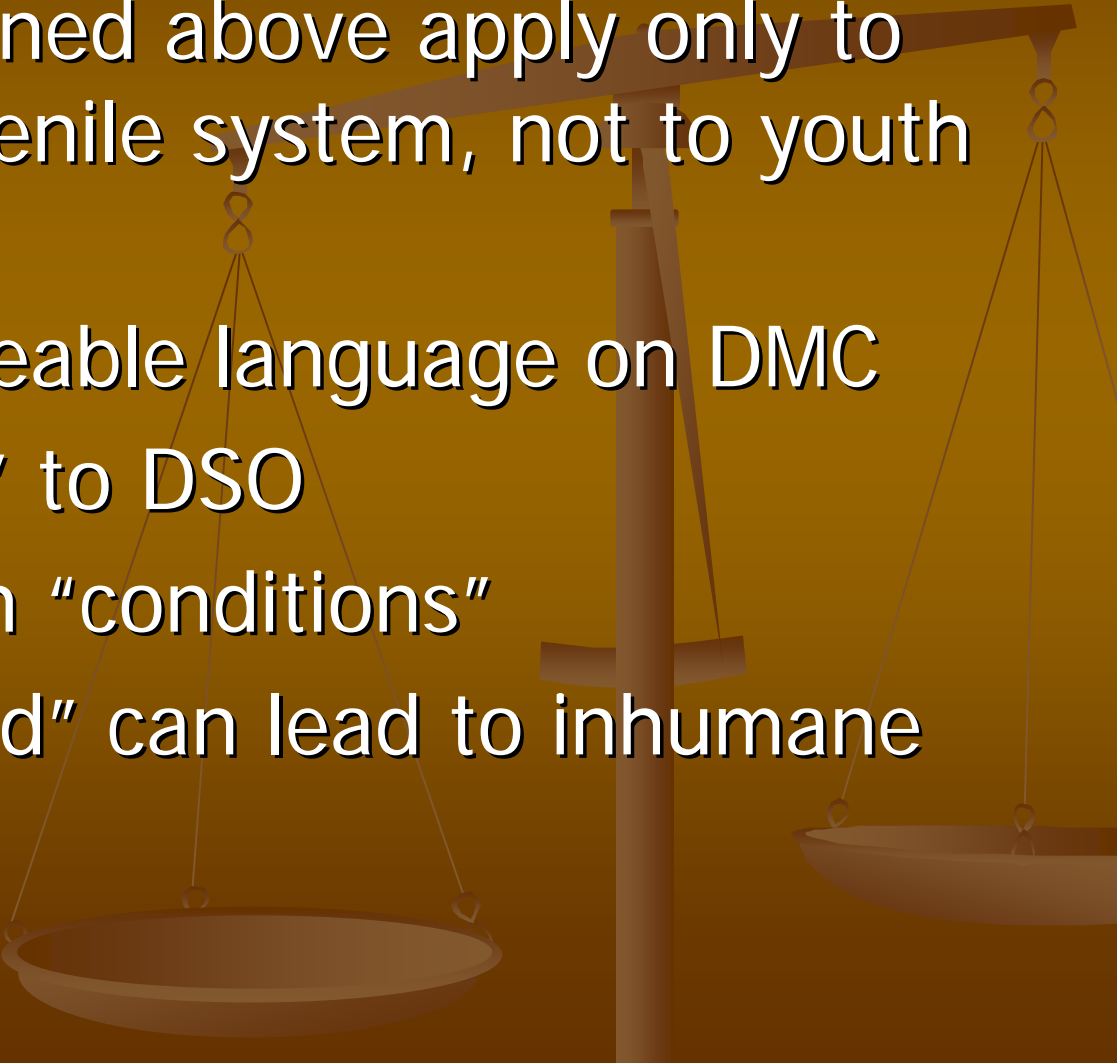
- Status offenders cannot be detained in correctional facilities
- Valid court order (VCO) "exception"

■ Disproportionate Minority Contact (DMC)

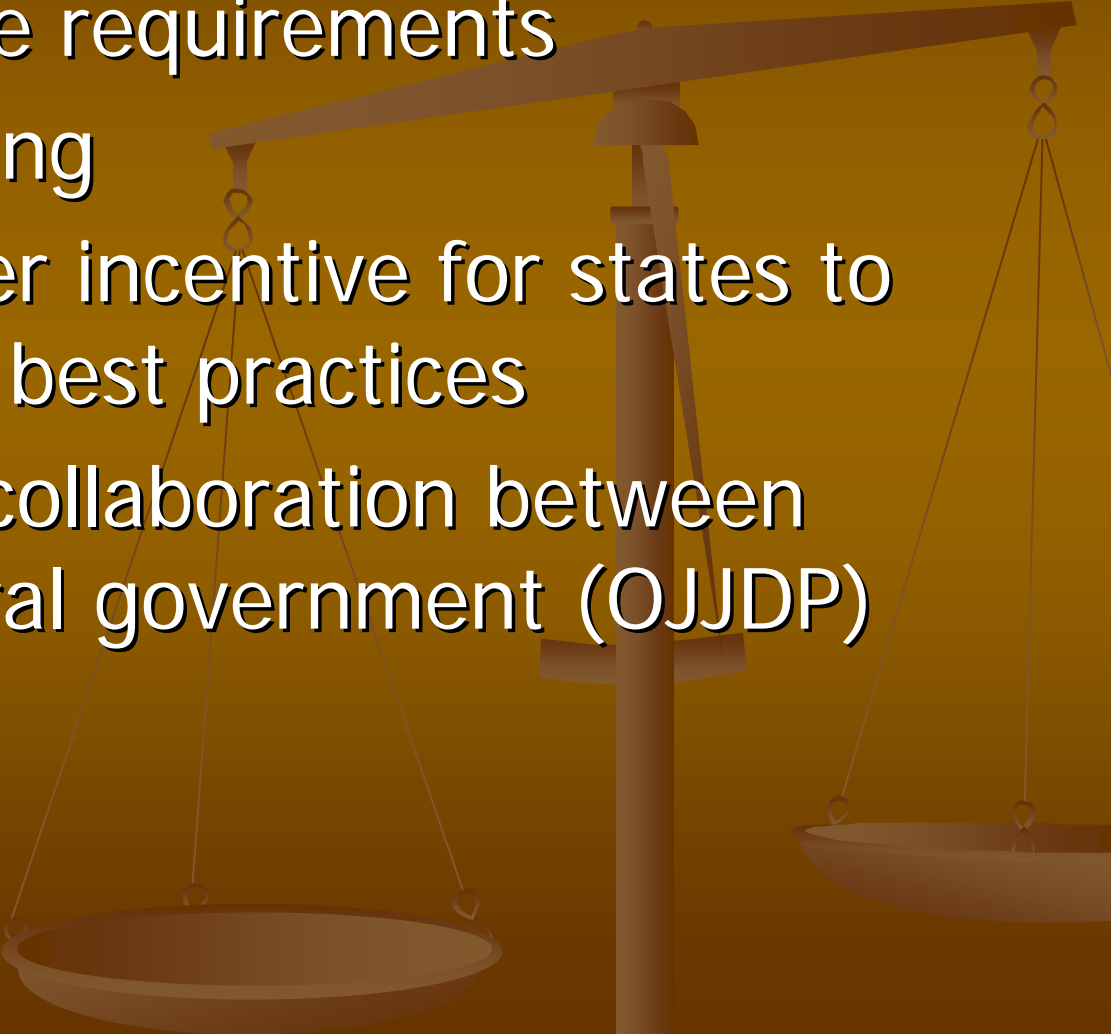
- States must "address" problem of over-representation
- Includes trend towards harsher sentencing of youth of color than whites for similar offenses



Current Issues

- Protections outlined above apply only to youth in the juvenile system, not to youth tried as adults
 - Vague unenforceable language on DMC
 - VCO "exception" to DSO
 - No provisions on "conditions"
 - "Sight and Sound" can lead to inhumane treatment
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S. 3155 110th Congress

- Strengthens core requirements
 - Authorizes funding
 - Provides stronger incentive for states to comply and use best practices
 - Proposes more collaboration between states and federal government (OJJDP)
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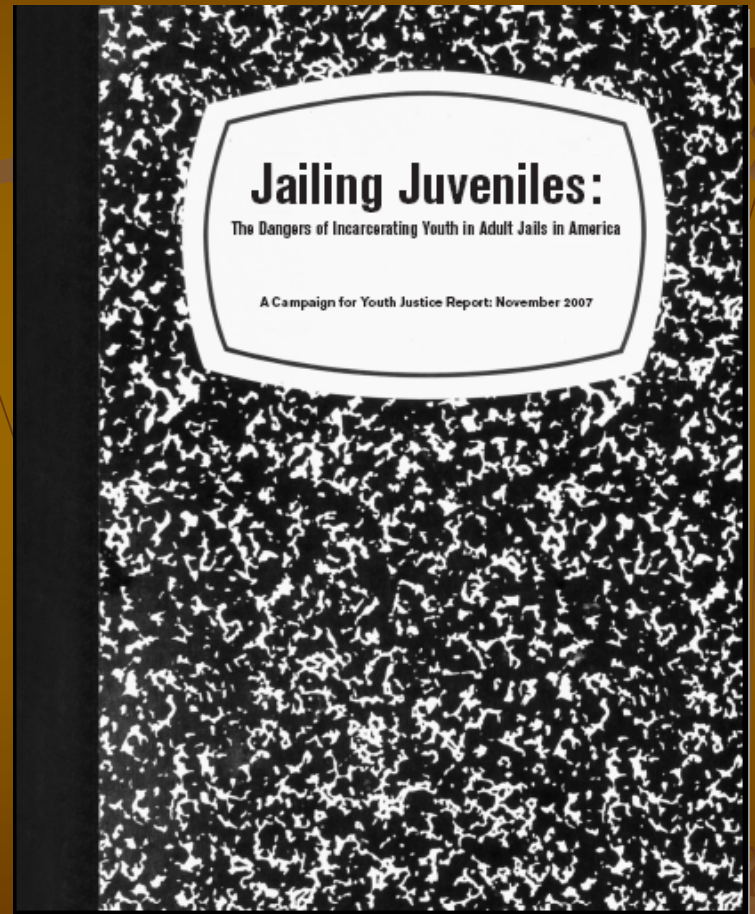
Jail Removal in Current Law



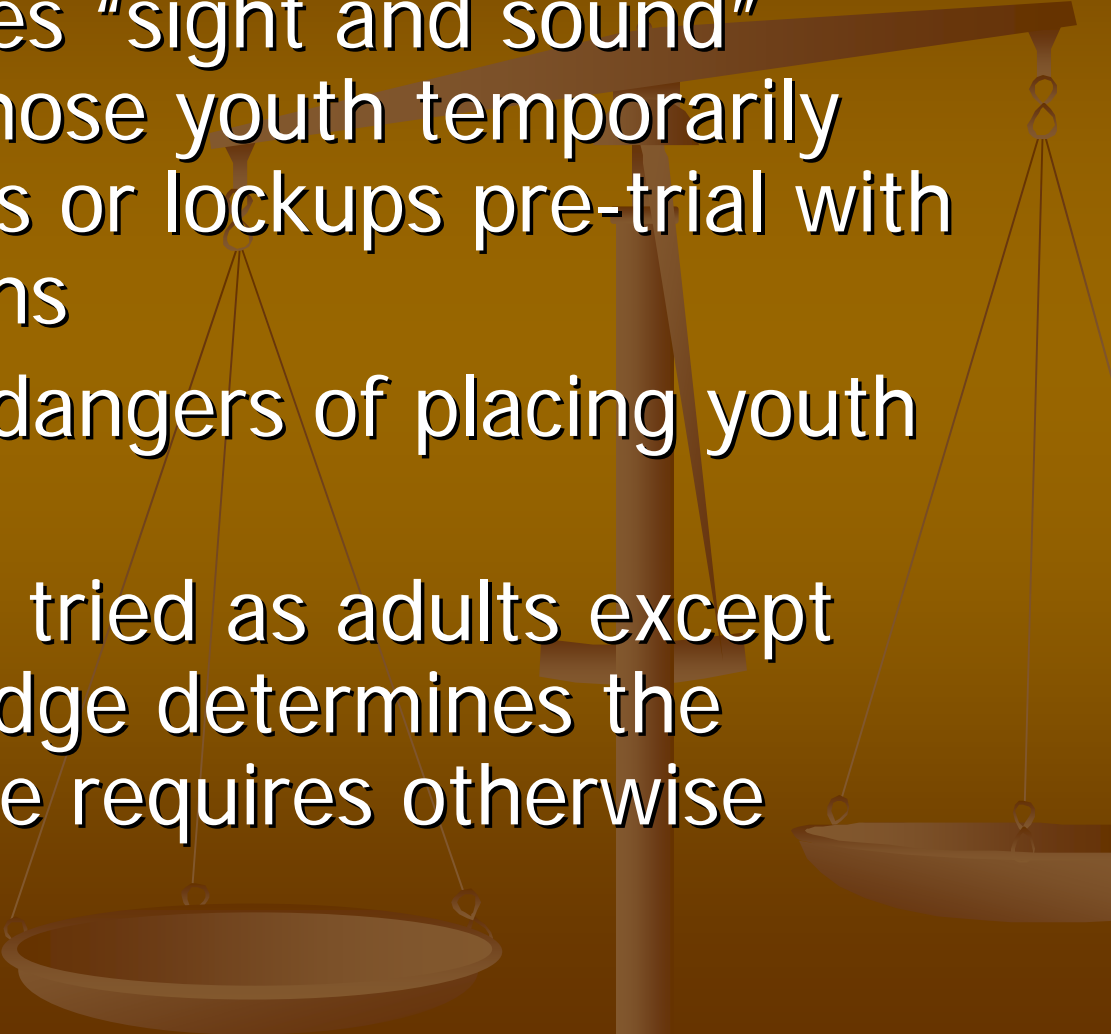
- Juveniles awaiting delinquency proceedings cannot be held in adult jails or lockups except under very limited circumstances
- Recognizes the risks juveniles face in adult facilities under any circumstances
 - Sexual assault
 - 13% of rape victims but <1% of jail population
 - Suicide
 - Youth 36 times more likely to commit suicide in adult facility than in a juvenile one
 - Lack of access to education
 - 40% of adult jails provide no educational services at all
- Current law still does not apply to those tried as adult
 - More than half of juveniles tried as adults and *not convicted* spent at least 1 month in adult jail
 - CDC study- juveniles tried as adults makes them 34% more likely to recidivate
 - Conditions in adult jail amount to pre-trial punishment

Jail Removal in S.3155

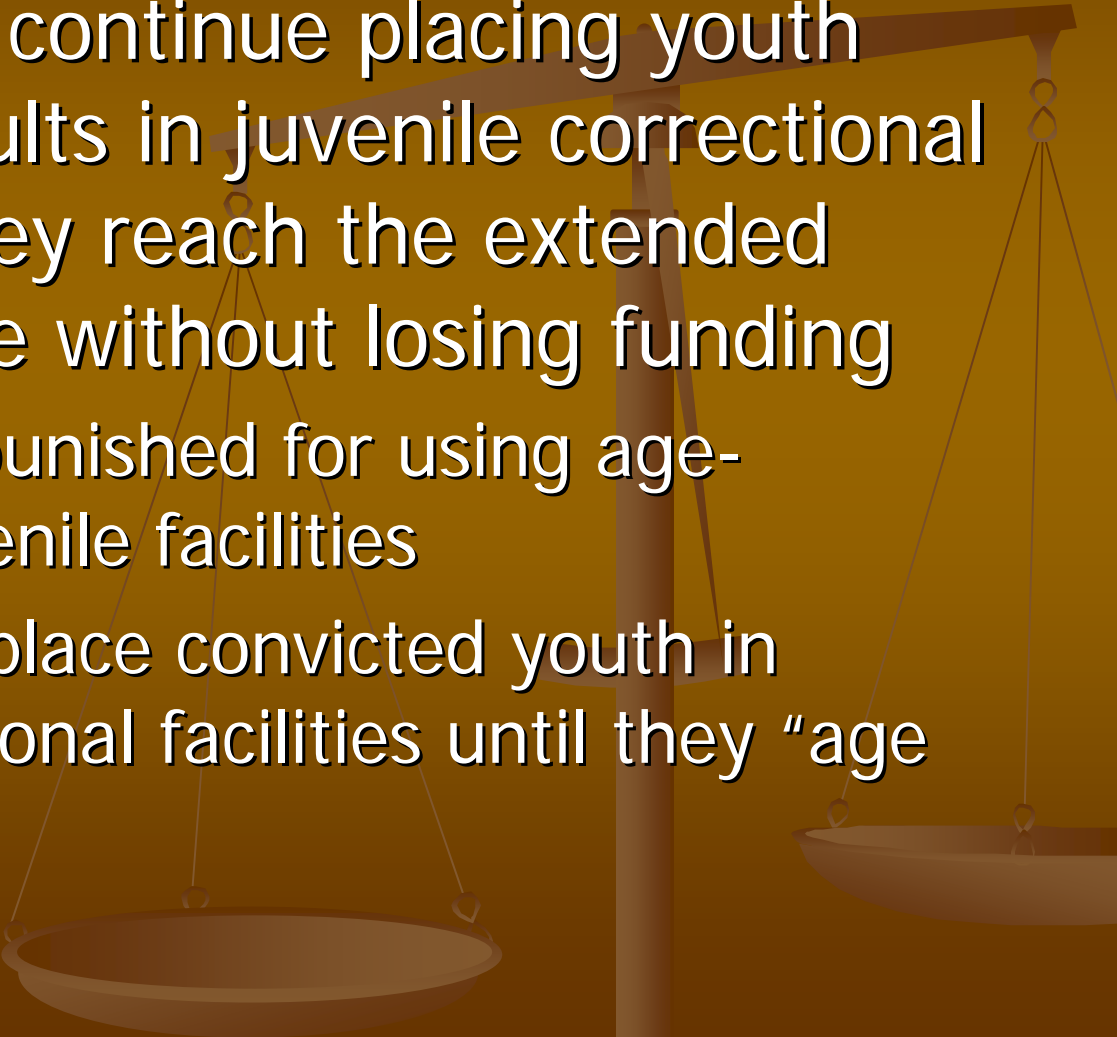
- Extend jail removal to all juveniles, regardless of court
- Pretrial youth will be detained in juvenile detention facilities not in adult jails unless a judge in the interest of justice determines otherwise



“Sight and Sound” in S. 3155

- S. 3155 continues “sight and sound” separation for those youth temporarily held in adult jails or lockups pre-trial with limited exceptions
 - Recognizes the dangers of placing youth with adults
 - Applies to youth tried as adults except where a local judge determines the interest of justice requires otherwise
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“Sight & Sound” / Adult Inmate

- Allows states to continue placing youth convicted as adults in juvenile correctional facilities until they reach the extended jurisdictional age without losing funding
 - States are not punished for using age-appropriate juvenile facilities
 - Allow states to place convicted youth in juvenile correctional facilities until they “age out”
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Status Offenders in S. 3155



- Status offences: truancy, breaking curfew, disobeying parents, running away
- Status offenders can still be detained if they break a valid court order (VCO), such as school attendance
- Establishes a 7-day ceiling for detention of status offenders

S. 3155 (as amended)

- “Cardin” amendment approved during committee “markup”
- “VCO” exception removed



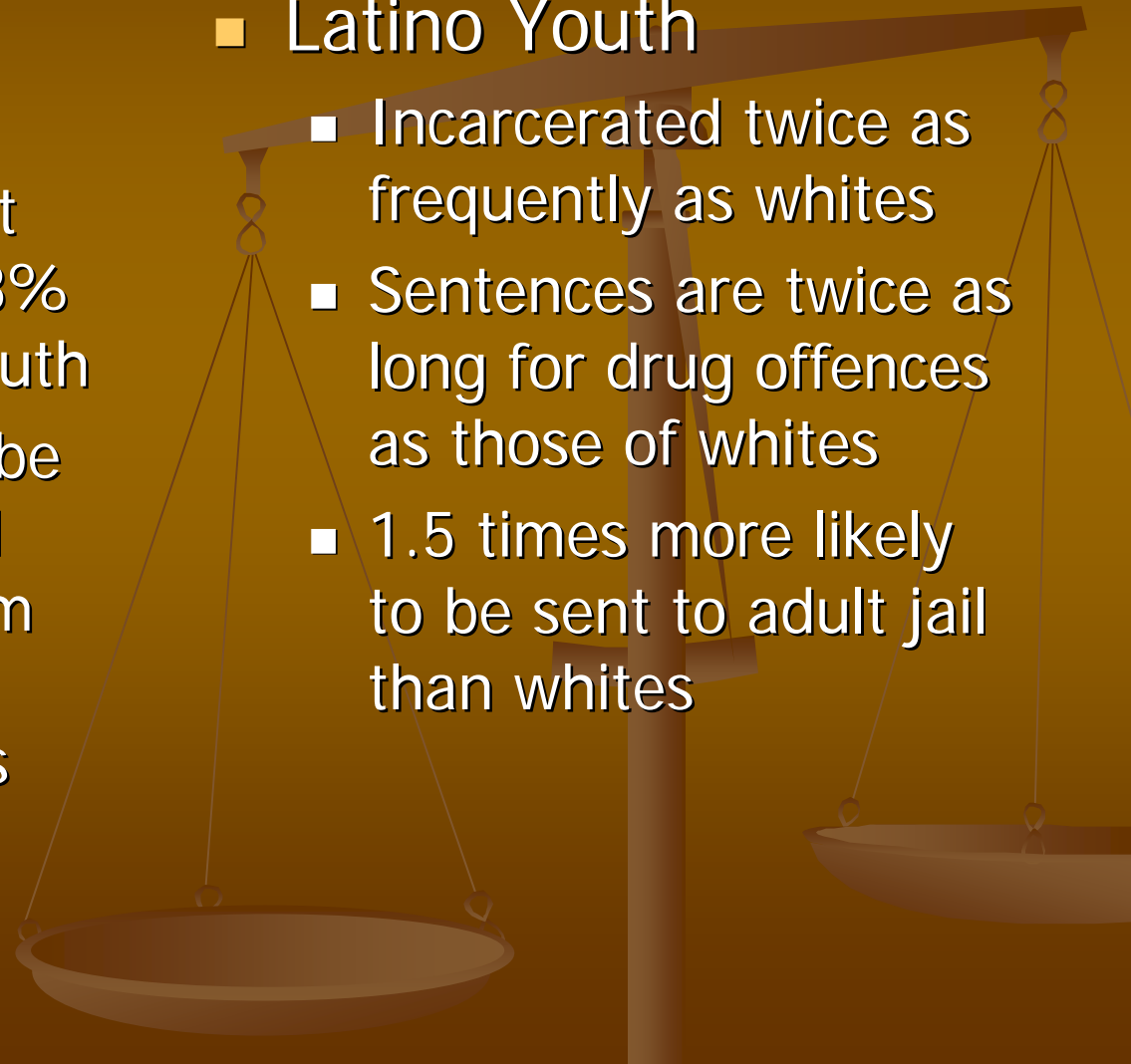
Disproportionate Minority Contact: The Facts

■ African- American Youth

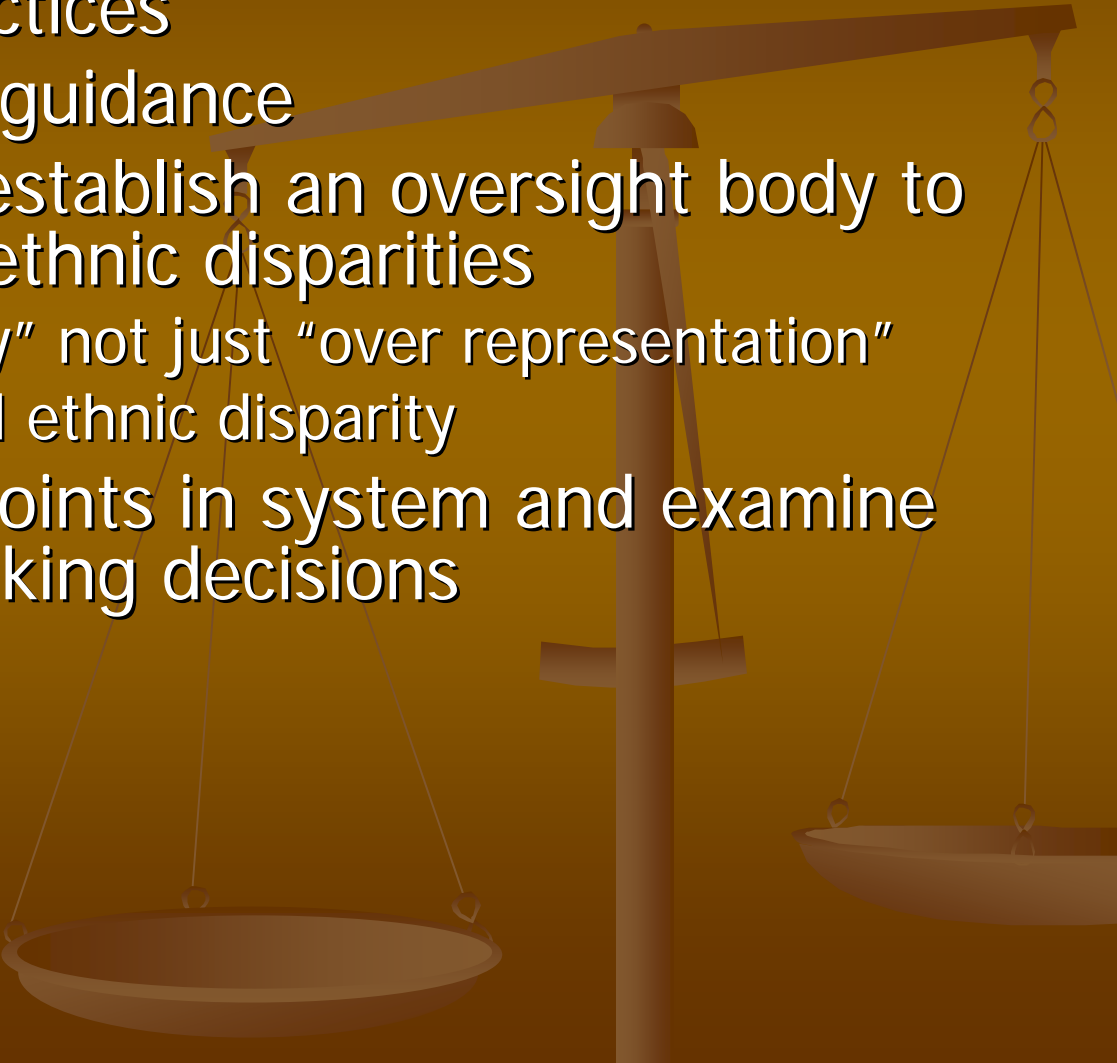
- 16% of adolescent population, but 38% of incarcerated youth
- Twice as likely to be detained in locked facilities away from home for drug offences as whites

■ Latino Youth

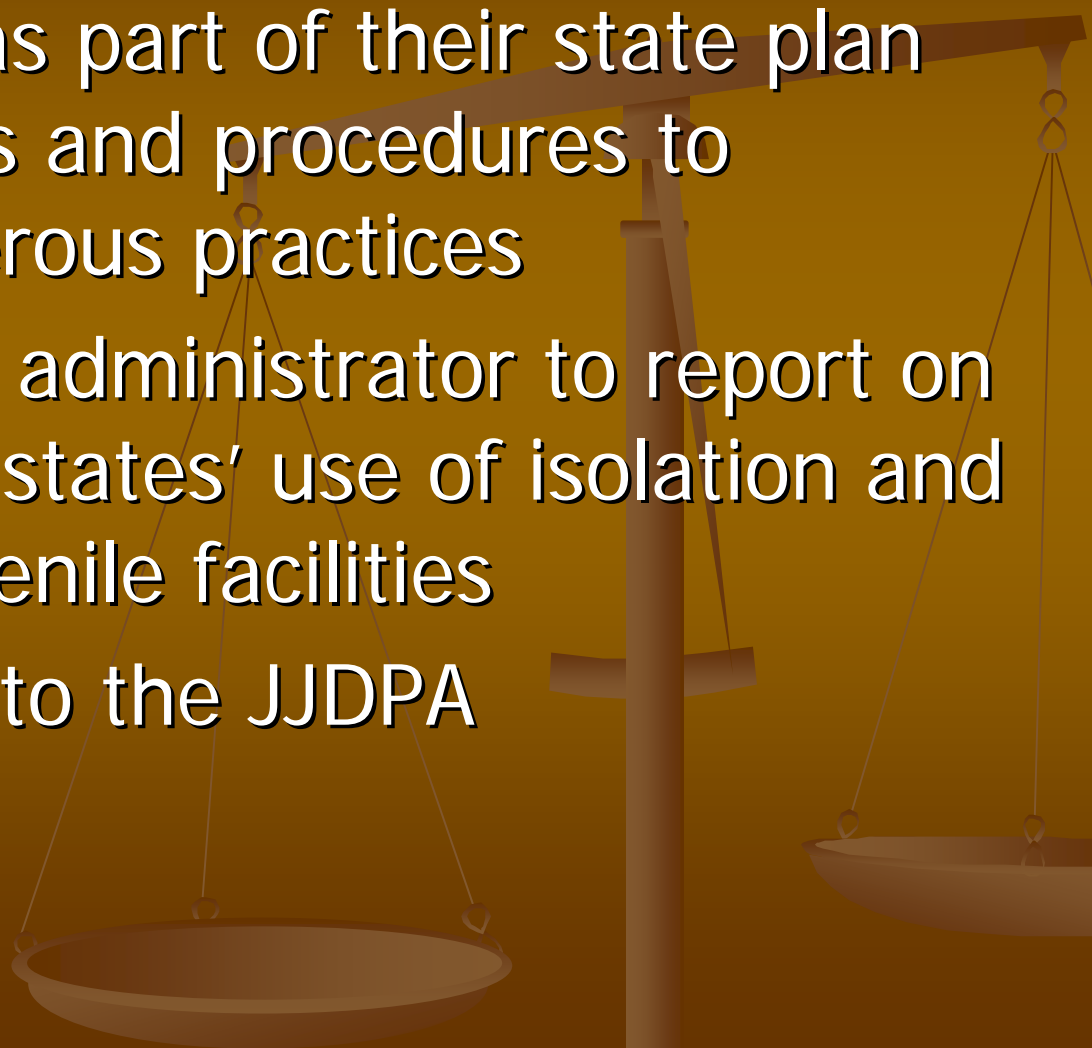
- Incarcerated twice as frequently as whites
- Sentences are twice as long for drug offences as those of whites
- 1.5 times more likely to be sent to adult jail than whites



DMC in S. 3155

- Based on best practices
 - States given clear guidance
 - Require states to establish an oversight body to reduce racial and ethnic disparities
 - Focus on “disparity” not just “over representation”
 - Includes racial and ethnic disparity
 - Identify decision points in system and examine factors used in making decisions
 - Arrest
 - Detention
 - Adjudication
 - Placement
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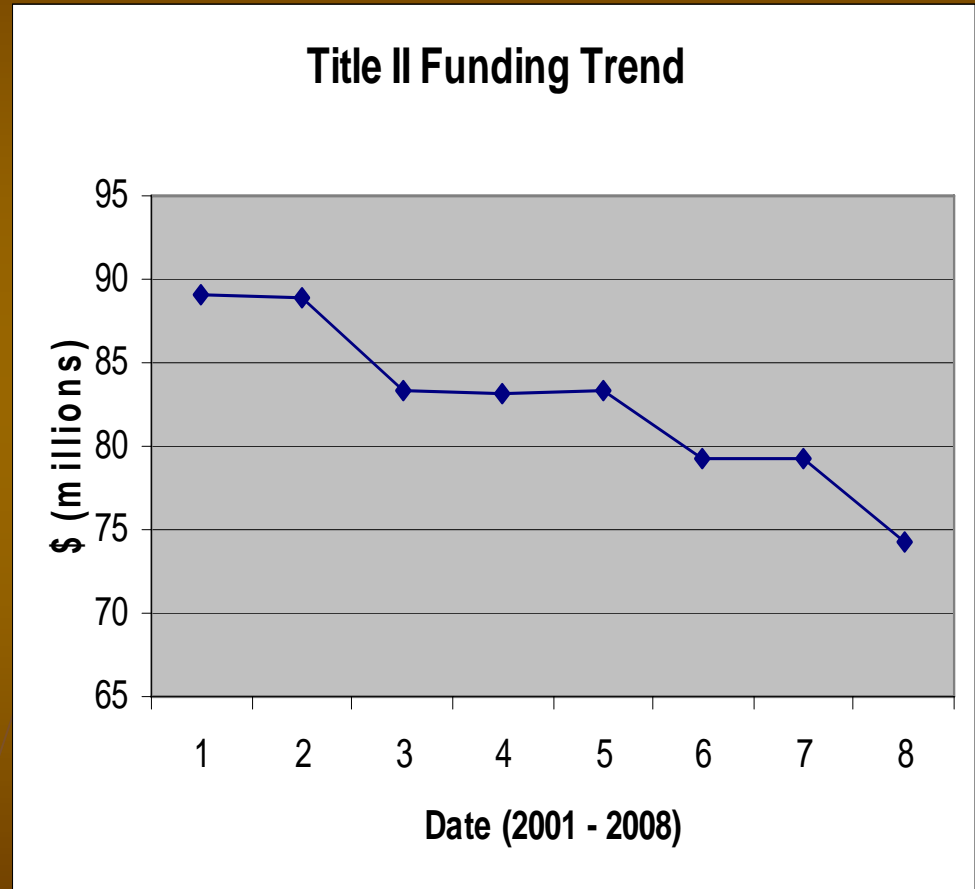
Conditions of Confinement in S. 3155

- Require states as part of their state plan to adopt policies and procedures to eliminate dangerous practices
 - Requires OJJDP administrator to report on data describing states' use of isolation and restraints in juvenile facilities
 - First time put into the JJDPA
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JJ Funding

Funding Trend in Recent Years

- Title II grants awarded to states for compliance with four core protections
- Funding trend during the previous administration

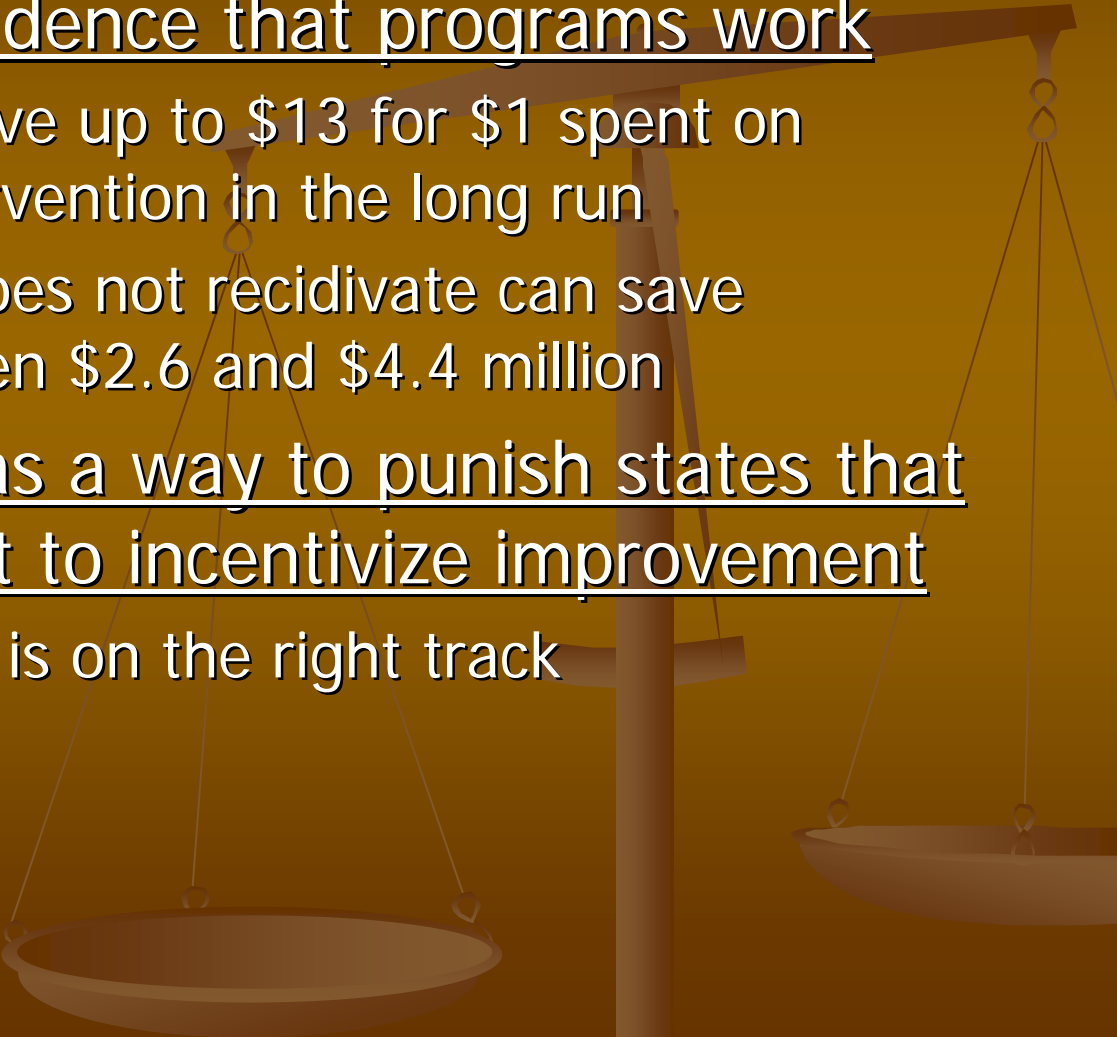


Funding in S. 3155



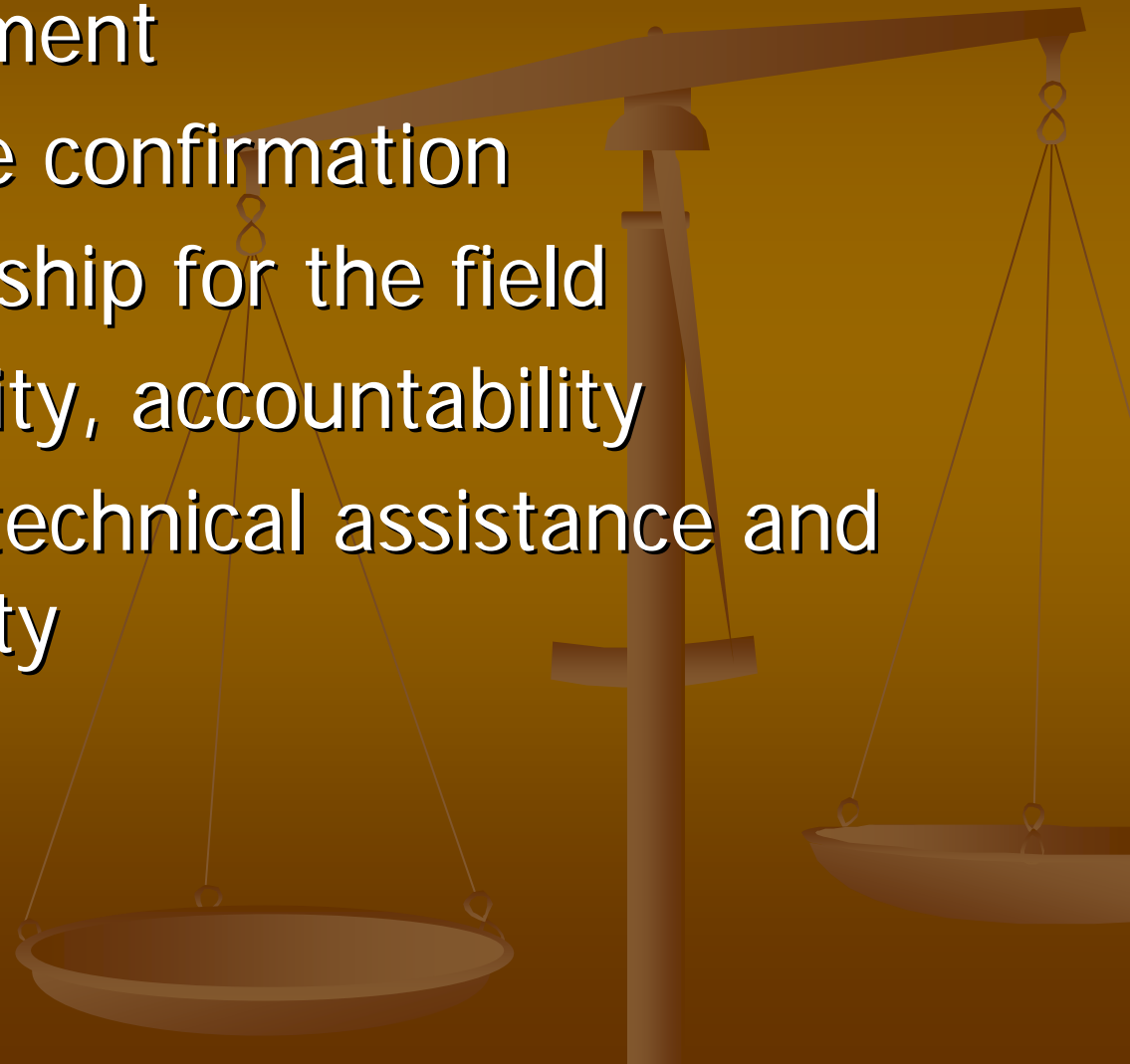
- Funds previously withheld for non-compliance are re-used by states as “improvement grants”
- Incentive grants for best intervention and prevention methods
- Increased appropriations for Title II and Title V
 - Funding for prevention programs and alternatives to detention
 - *Only* federal funding directed this way

Funding in S.3155 cont'd

- Ties funding to evidence that programs work
 - Good programs save up to \$13 for \$1 spent on prevention or intervention in the long run
 - Each youth that does not recidivate can save community between \$2.6 and \$4.4 million
 - Uses funding not as a way to punish states that do not comply, but to incentivize improvement
 - Current legislation is on the right track
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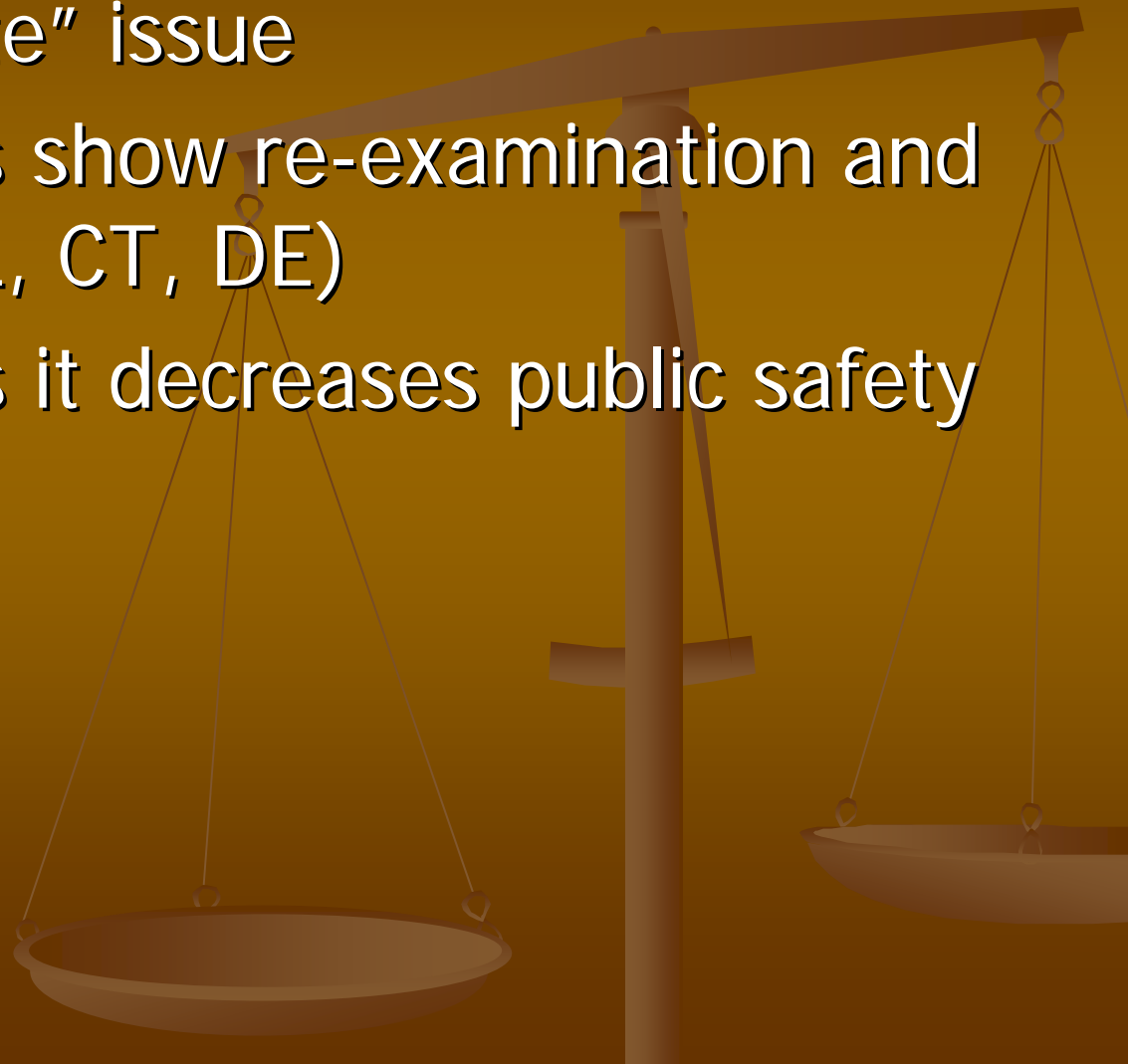
OJJDP Administrator

- Crucial appointment
- Requires Senate confirmation
- Vision & Leadership for the field
- Restore credibility, accountability
- Provide strong technical assistance and research capacity



Transfer to Adult Court

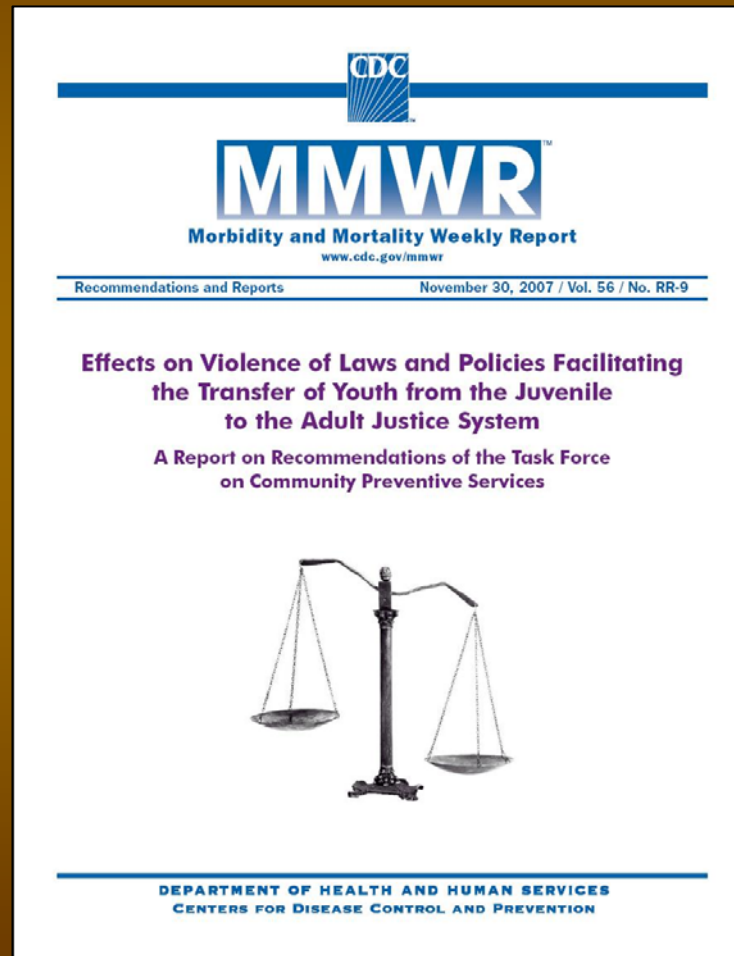
- Primarily a “state” issue
- Trends in states show re-examination and reversal (e.g. IL, CT, DE)
- Research shows it decreases public safety



Transfer Research

- Research shows that youth prosecuted as adults are more likely to reoffend. Reports released by the U.S. Centers for Disease Control and Prevention and the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention found that youth prosecuted in or transferred to the adult criminal justice system are much more likely to reoffend when compared to youth who committed similar crimes, but were retained in the juvenile justice system.

CDC report



OJJDP report



- Laws to make it easier to transfer youth to the adult criminal court system have little or no general deterrent effect, meaning they do not prevent youth from engaging in criminal behavior;
- Youth transferred to the adult system are more likely to be rearrested and to reoffend than youth who committed similar crimes, but were retained in the juvenile justice system;
- Higher recidivism rates are due to a number of factors including the youth's e.g. Stigmatization/negative labeling effects of being labeled as a convicted felon; Decreased employment and community integration opportunities due to a felony conviction.

Youth in adult jails, prisons

- ***Causes long-lasting harm for youth:*** Youth housed in adult jails are at a higher risk of violence and suicide than those in the juvenile justice system. For example, youth housed in adult jails are 36 times more likely to commit suicide than youth housed in juvenile detention facilities. Additionally, up to one-half of youth detained in adult jails pre-trial are not convicted as adults, but will have spent between 1-6 months in an adult jail.

Negative impact on youth of color

- ***Disproportionately affects Youth of Color:*** For example, African-American youth - only 17% of the overall youth population - are 62% of the youth prosecuted in the adult criminal system and are nine times more likely than White youth to receive an adult prison sentence.

Public opinion rejects transfer, adult facilities for youth

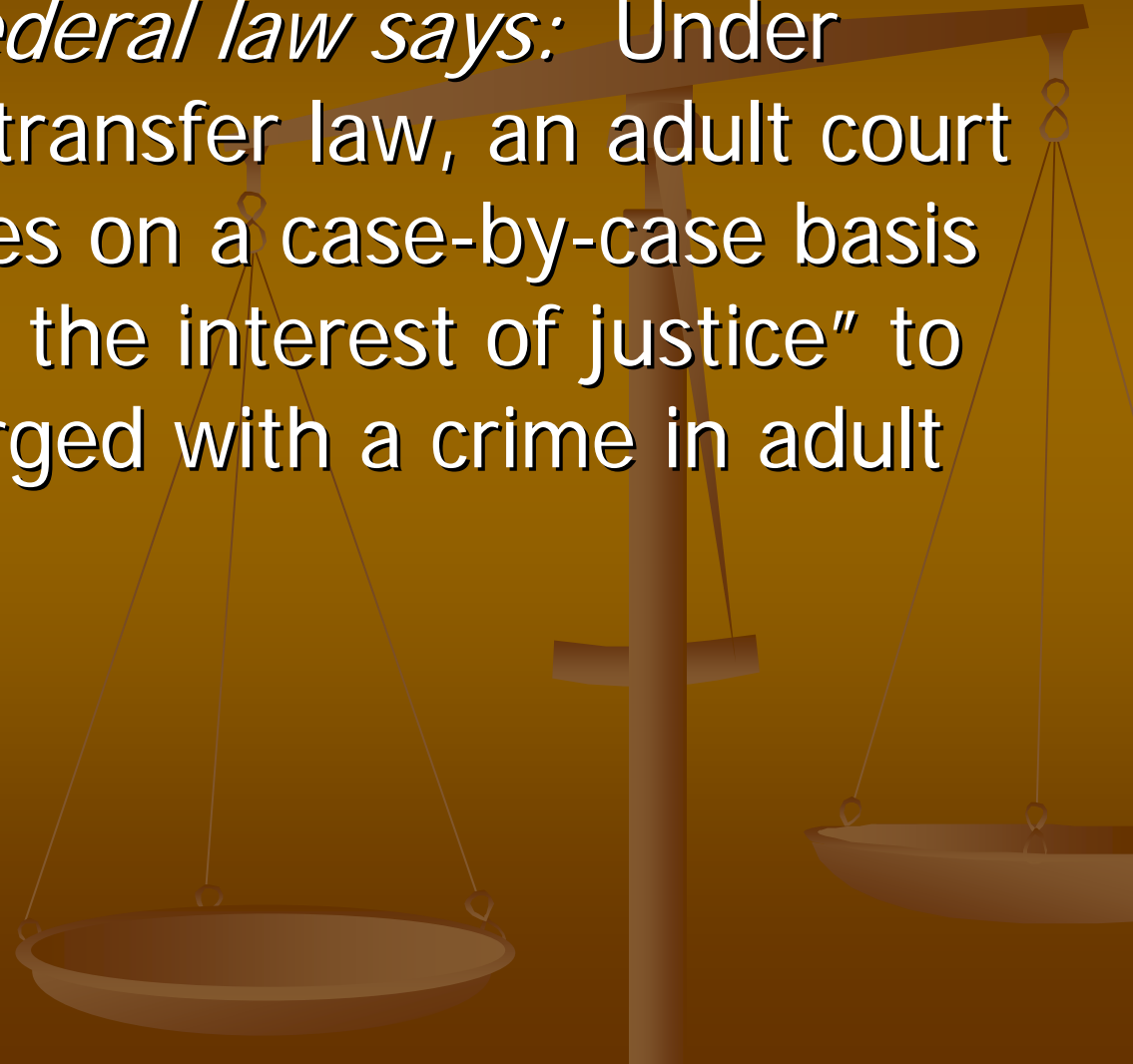
- A Zogby poll conducted in 2007 found that 92% of Americans believe the decision to try a youth in adult court is best made on a case-by-case basis by a neutral decision-maker, such as a juvenile court judge. In addition, national polling shows that a vast majority of Americans support rehabilitation and treatment as an effective response to juvenile delinquency and crime.

CFYJ recommendations

- Oppose amendments to increase federal transfer (e.g. Kyl amendment)
- Promote assistance to states on data collection (i.e. not well documented)
- Promote on-going federally supported research & impact analysis
- Support JJDPA reauthorization as a “catalyst” for state reform by promoting more effective alternatives in jj system

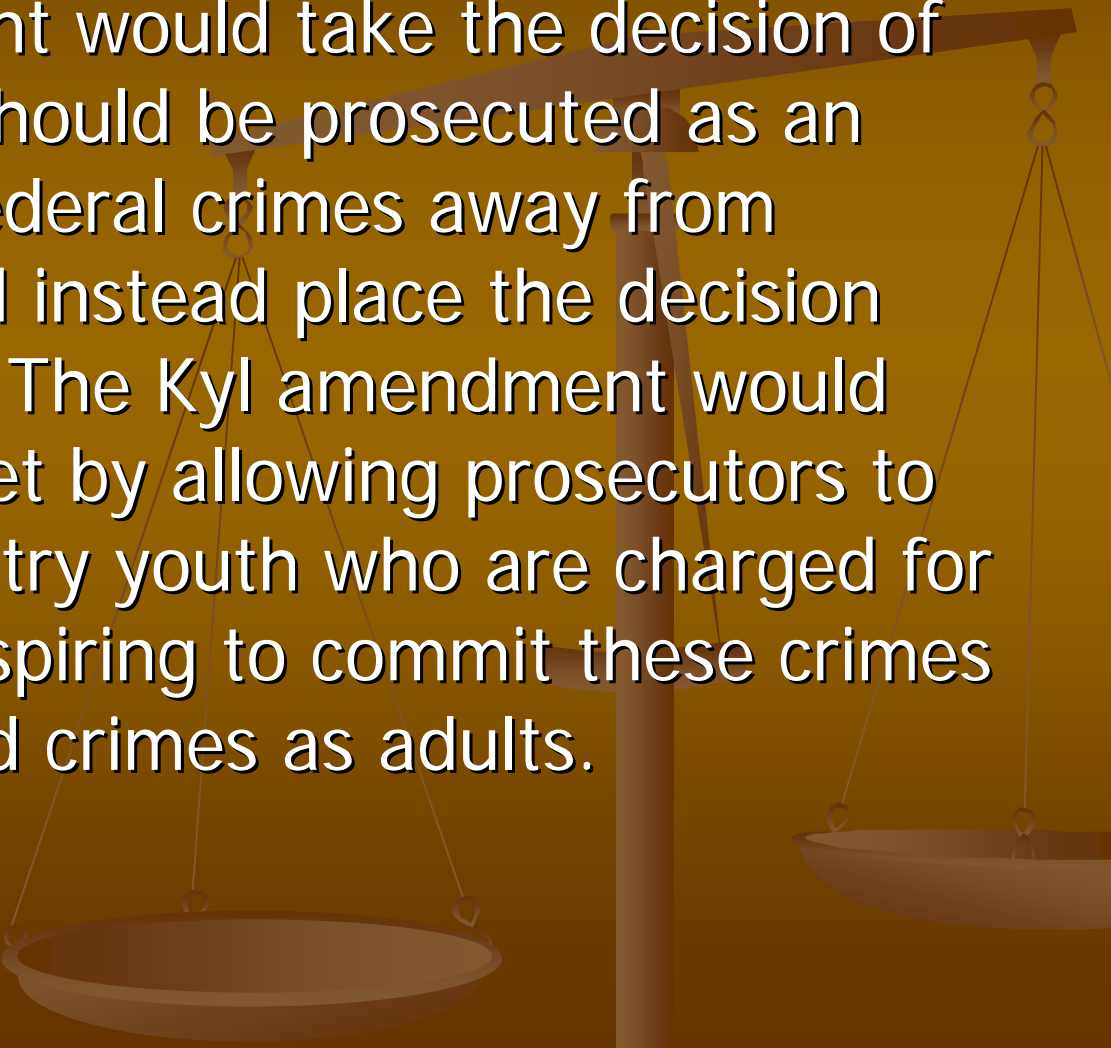
Kyl Amendment

- *What current federal law says:* Under current federal transfer law, an adult court judge determines on a case-by-case basis whether it is “in the interest of justice” to try a youth charged with a crime in adult court.



Kyl Amendment

The Kyl amendment would take the decision of whether a youth should be prosecuted as an adult for certain federal crimes away from neutral judges and instead place the decision with prosecutors. The Kyl amendment would also cast a wide net by allowing prosecutors to have discretion to try youth who are charged for attempting or conspiring to commit these crimes and for any related crimes as adults.



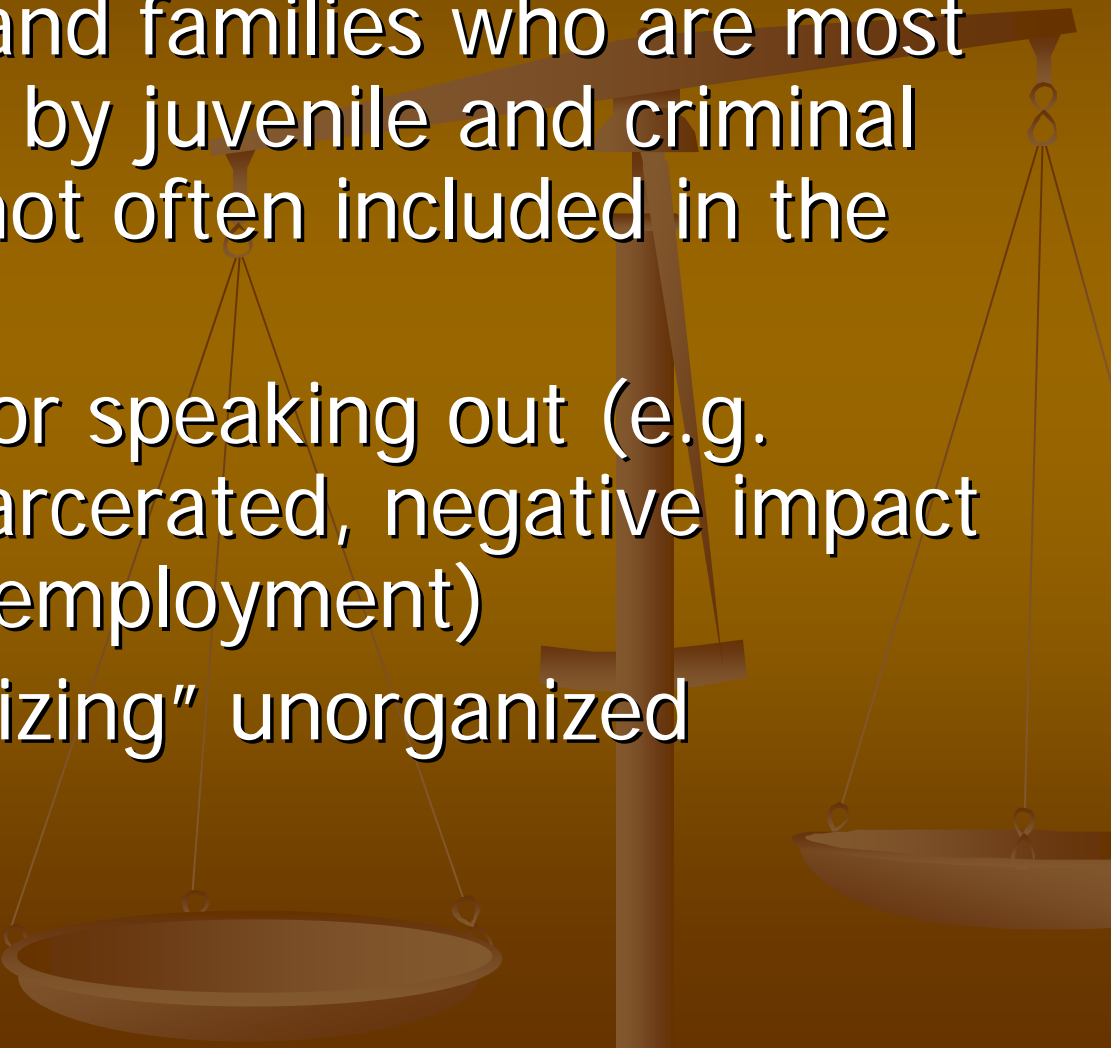
Recommendations to DOJ

- ***Collect data on transfer policies in States and at the federal level:*** Data on the prosecution of youth in and transfer of youth to the adult criminal justice system is lacking for States and the federal criminal justice system. CFYJ recommends that the new Administration provide resources to States to track and evaluate the impact of transfer laws.

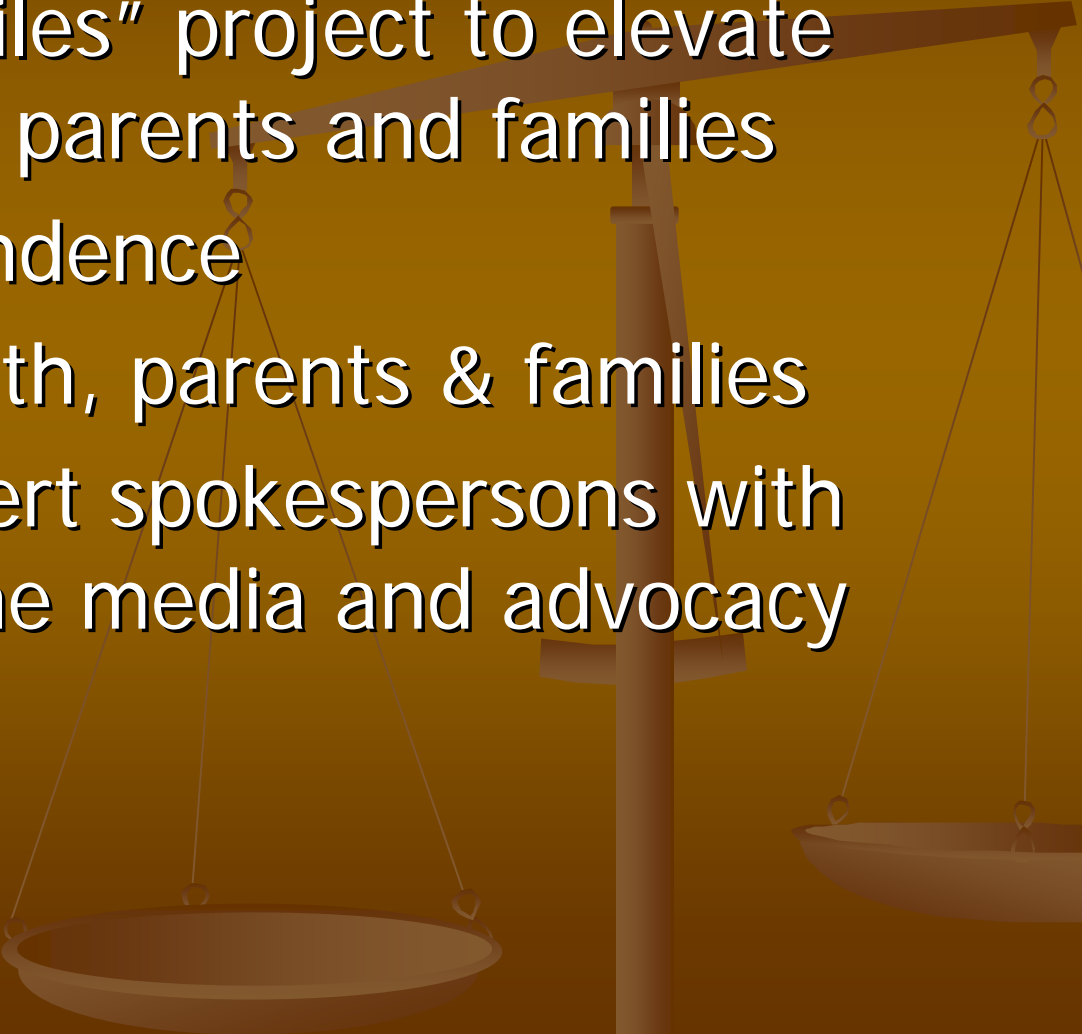
Recommendations to DOJ

- ***Conduct on-going research on the effects of prosecuting youth in or transferring youth to the adult criminal justice system:*** CFYJ recommends that the new Administration undertake additional research efforts on the impact of transferring youth to the adult criminal justice system, including recidivism and collateral consequences of prosecution in or transfer to the adult system, such as education attainment, employment, and access to federal programs (i.e. Medicaid).

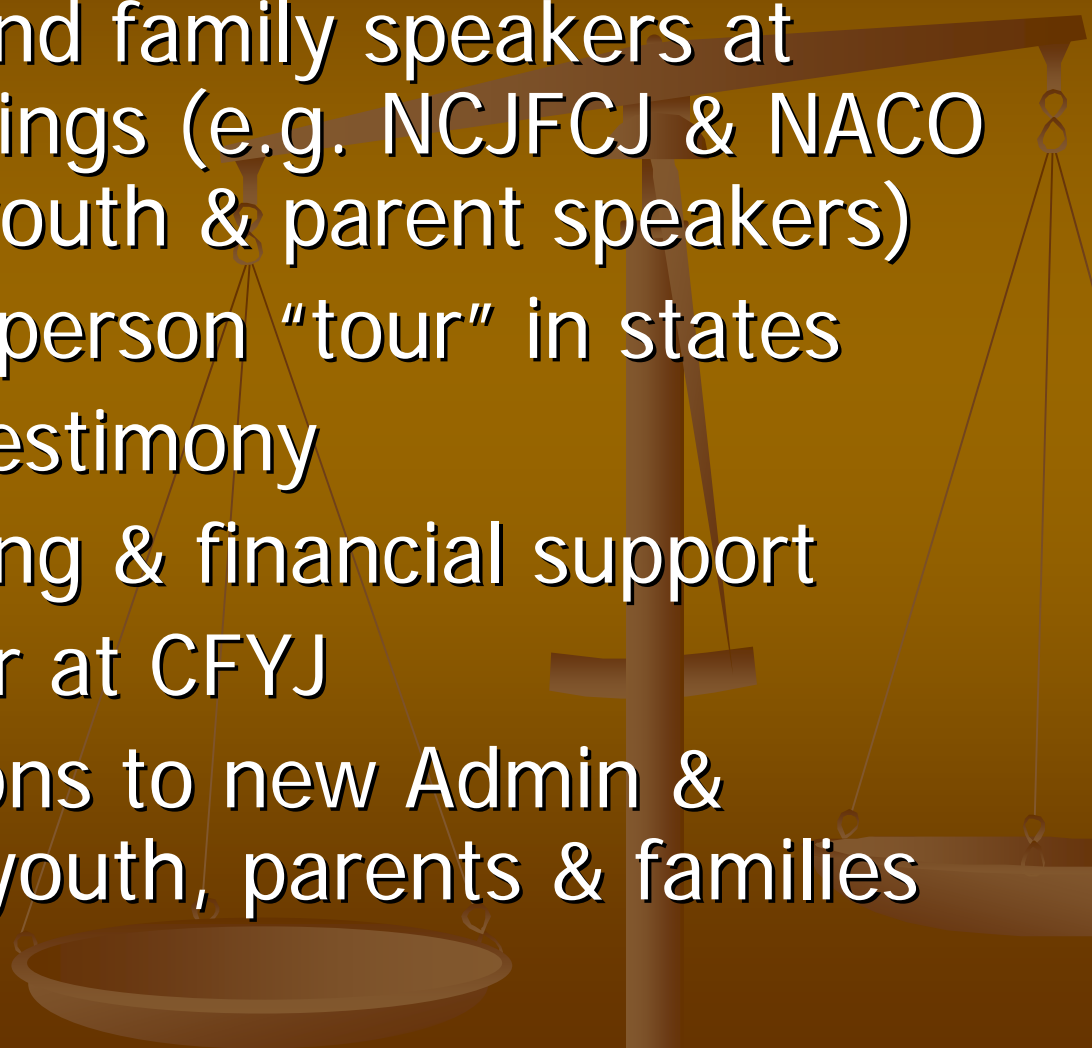
Engage youth, parents & families

- Youth, parents and families who are most directly affected by juvenile and criminal justice policies not often included in the dialogue
 - Consequences for speaking out (e.g. retaliation if incarcerated, negative impact on education & employment)
 - Requires “organizing” unorganized constituencies
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Engaging youth, parents & families

- CFYJ “Case Profiles” project to elevate voices of youth, parents and families
 - Prison correspondence
 - Outreach to youth, parents & families
 - Promote as expert spokespersons with policymakers, the media and advocacy organizations
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Engaging youth, parents & families

- Youth, parent and family speakers at national convenings (e.g. NCJFCJ & NACO meetings with youth & parent speakers)
 - National spokesperson “tour” in states
 - Congressional testimony
 - Outreach, training & financial support
 - Parent organizer at CFYJ
 - Recommendations to new Admin & Congress from youth, parents & families
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Resources & Links

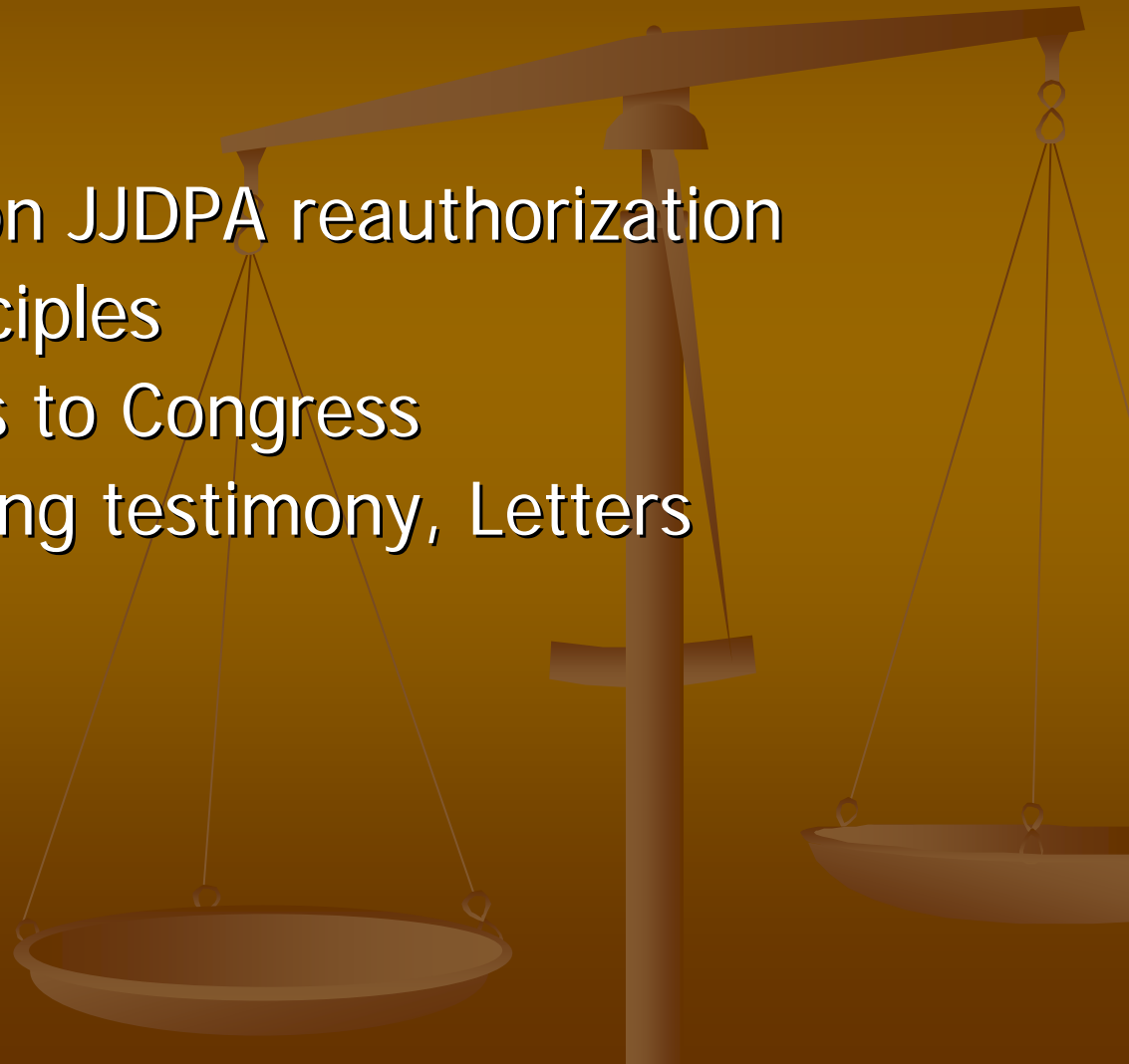
www.act4jj.org

Regular updates on JJDPA reauthorization

Statement of Principles

Recommendations to Congress

Fact sheets, Hearing testimony, Letters



Resources & Links

www.cfyj.org

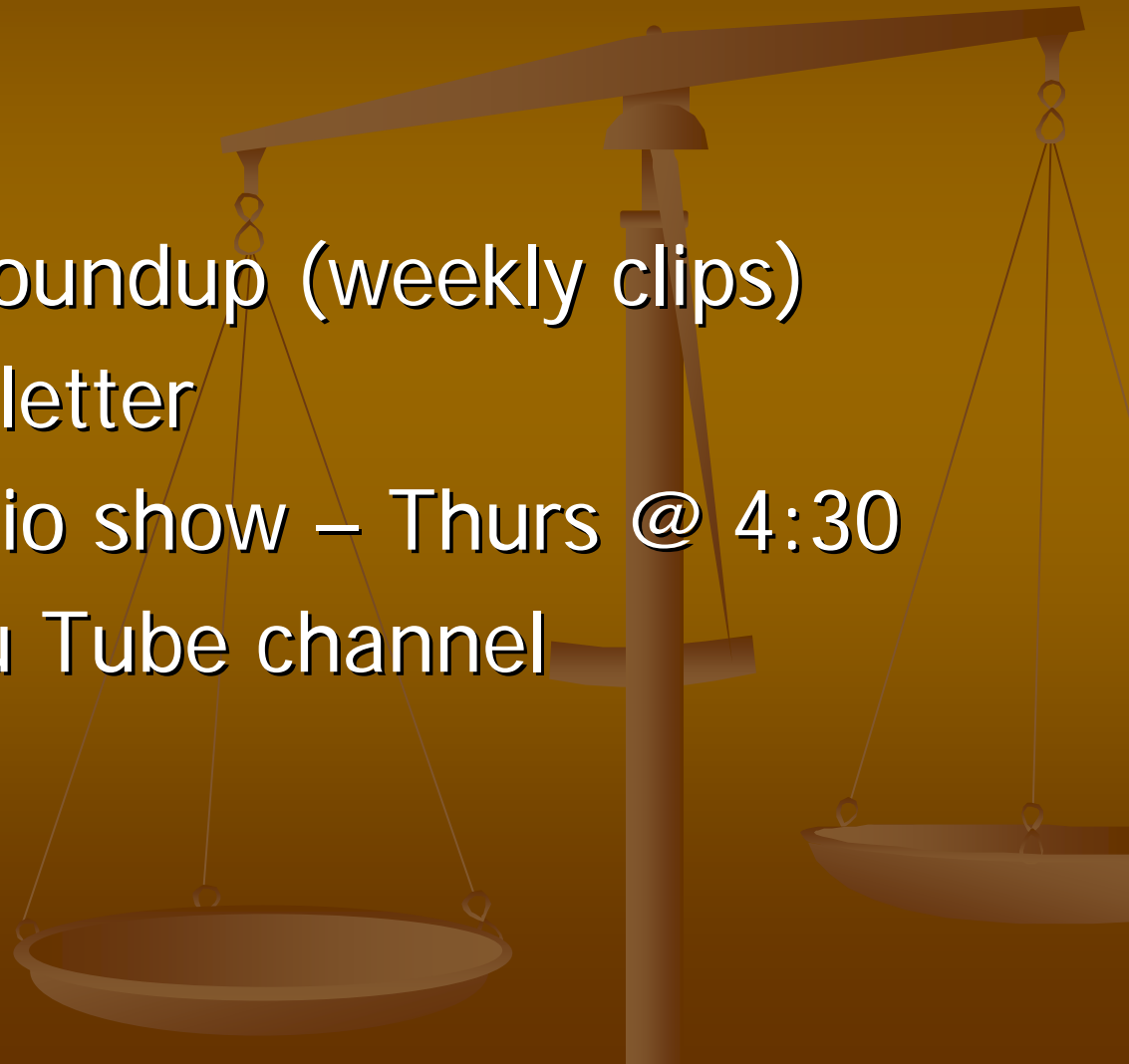
Weekly News Roundup (weekly clips)

Monthly e-newsletter

"JJ Matters" radio show – Thurs @ 4:30

"JJ Reform" You Tube channel

Facebook page



Thank you!

