

# CONSORTIUM OF FORENSIC SCIENCE ORGANIZATIONS

JUNE, 2012

NAS plus 40 months

## LEGISLATIVE UPDATE

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### BUDGETS

Congress has been very busy working on the budgets and policy legislation regarding crime and forensics. In late May, the Senate completed their budget and we have included any language and funding in this newsletter. As we stated in our first newsletter for this year, the Congress has to pass a budget in the House and the Senate and then reconcile the differences between the two in what is called a “conference.” We hope to have a final budget memo for you in November but it will depend on the actions of the Congress.

The forensic community is to be commended for all the hard work you did contacting your Members of Congress to let them know how very important the Paul Coverdell Act is to you. You will note that the Senate funded the Coverdell Grants this year with \$12 million. It will become important to contact your Members soon and tell them how important it is to keep those funds in the final budget.

### JUSTICE FOR ALL ACT

The Justice For All Act will come up for consideration in June or July in the Senate and no date has been set in the House. We have provided a link for you to pull up the language and review it. We are in active discussions with all key Senate staff to ensure that the interests of the forensic community are taken into account. Part of the discussions about this legislation has been a bill introduced by Senator Cornyn (R-TX) titled the SAFER Act. The CFSO has been very active on working with many Members of Congress regarding this legislation as well. In short this legislation asks for an audit of rape kits in law enforcement agencies and crime labs. In some versions of the bill, it has also called for a registry to be created of those kits so as to track progress through the process. We have expressed to staff our concerns with the simplicity of the audit, as we do not believe that it will capture the extraordinarily complex procedure of processing rape kits, we are also concerned that it dictates to a law enforcement agency and a crime lab what cases should receive priority without knowing the details of the cases and finally we are concerned that a registry as written has the potential to reveal the identity of the victim. Having said that, we share in the concern of the policy-makers that it is critical to assess the backlogs that exists in some agencies. We are working with them on alternative language.

### FORENSIC REFORM

We continue to work with Senator Leahy and other key policy-makers involved in this legislation. We expect a hearing this summer and the next draft shortly after the Justice For All Act is completed. It is our goal to have the next newsletter provide an overview of the latest changes of this legislation.

## WRAP UP

It has been a very active time for Congress in the subject of forensics with much more activity on the near horizon. As always, if you have concerns or ideas we welcome your feedback and will gladly answer any questions you may have about the information provided in this newsletter.

### *Senate Commerce, Justice, Science...*

***Eliminating Duplication and Improving Efficiencies in DOJ Grants*** —The Committee believes that, as the United States experiences budgetary constraints, there is an ever-increasing need to ensure that governmental resources, including those awarded through grants and sub-grants, are appropriately targeted and that unnecessary duplication is mitigated. This was evident during the Committee’s March 8, 2012, hearing on DOJ’s fiscal year 2013 budget request, when several members of the Committee noted the recommendations regarding DOJ grants programs for crime prevention, law enforcement, and crime victim services that were included in GAO’s 2012 Annual Report: “Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue”.

GAO found that 56 of DOJ’s 253 fiscal year 2010 grant solicitations, or more than 20 percent, were providing grant funds that could be used for victim assistance. In addition, more than 50 percent of all grant solicitations provided funding that could be used in support of the same three justice areas—victim assistance, technology and forensics, and juvenile justice—indicating concentrated and overlapping efforts. Additionally, GAO found that, as established in statute, some of the grant programs administered by OJP, OVW, and the COPS Office are similar in scope and grant applicants can apply for and receive grant awards from more than one program. Moreover, grant recipients may choose to award a portion of their grant to sub-grantees. These sub-grantees may also apply directly to Justice for funding through other grant programs for the same or similar purposes. The number of grant programs and recipients, and the billions of dollars in funds awarded annually, present administrative challenges for Justice.

Therefore, as requested at the Committee’s DOJ budgetary oversight hearing, the Attorney General shall follow GAO’s recommendations and report to the Committee within 120 days of enactment of this act on the following:

—Conduct an assessment to better understand the extent to which DOJ grant programs overlap with one another and determine if grant programs may be consolidated to mitigate the risk of unnecessary duplication. To the extent that DOJ identifies any statutory obstacles to consolidating its grant programs, it should work with Congress to address them, as needed; and

—Direct granting agencies to coordinate with one another on a consistent basis to review potential or recent grant awards, including sub-grant awards reported by DOJ prime grant awardees, to the extent possible, before awarding grants. This could help ensure an accurate understanding of DOJ resources already provided to applicants and the communities they serve, as well as knowledge of those applicants proposing to carry out the same or similar activities with funds from one or more of the granting agencies’ programs. The Department should also take steps to establish written policies and procedures to govern this coordination and help ensure that it occurs.

***National Integrated Ballistic Information Network*** —The Committee continues to support the National Integrated Ballistic Information Network [NIBIN], including significant investment made by State and local law enforcement partners to build the current NIBIN database. In order to ensure that NIBIN remains a sustainable and effective national forensic resource, the Committee believes ATF should continue conducting a thorough review of NIBIN, including developing a strategic plan to address utilization gaps to ensure optimal productivity and use of ballistic-imaging technology across workstations and regions. To eliminate program inefficiencies, optimize costs, and sustain effectiveness, ATF should: scrutinize the placement of NIBIN equipment; shut down underutilized sites; and move equipment to high crime regional hubs. This approach may allow ATF to maximize the placement of equipment and personnel, reinforce information sharing across jurisdictions, create opportunities to develop protocols for both training and use, and increase the quality and quantity of data being put into NIBIN.

***National Center for Explosives Training and Research [NCETR]*** —Preventing the criminal use of explosives is one of the core missions of the ATF, and NCETR serves as the Bureau’s Center of Excellence for explosives research, training, and intelligence. NCETR develops, coordinates, conducts, and facilitates the delivery of basic and advanced training courses for ATF personnel, law enforcement community partners, the U.S. military, and other Federal agencies, both in the United States and abroad. The ATF’s goals are to foster arson- and explosives-related expertise, and to promote interagency partnerships. NCETR’s new facility is a critical national asset, but it remains understaffed and underutilized. The Committee encourages ATF and the Justice Department to explore ways to more actively employ the unique assets possessed by NCETR.

## RESEARCH, EVALUATION, AND STATISTICS

Appropriations, 2012 .....	\$113,000,000
Budget estimate, 2013 .....	\$136,000,000
Committee recommendation .....	\$126,000,000

The Committee's recommendation provides \$126,000,000 for the Research, Evaluation, and Statistics account. The recommendation is \$13,000,000 above the fiscal year 2012 enacted level and \$10,000,000 below the budget request. Funding in this account provides assistance in the areas of research, evaluation, statistics, hate crimes, DNA and forensics, and criminal background checks, among others.

The Committee's recommendations are displayed in the following programs:

### RESEARCH, EVALUATION AND STATISTICS [In thousands of dollars]

**National Institute of Justice [NIJ]** —The Committee's recommendation provides \$45,000,000 for the NIJ, in addition to \$4,000,000 transferred from OVW for research and evaluation on violence against women and Indian women. NIJ's mission is to advance scientific research, development, and evaluation to advance the administration of justice and public safety. The Committee directs that, prior to the obligation of any funds, NIJ submit a spend plan to the Committee for approval on how resources will be allocated.

**DNA and Forensics Research and Evaluation** —The fiscal year 2013 budget request eliminates resources to assist with critical forensics and DNA research and evaluation. The Committee continues to recognize those areas as vital components to maintaining and advancing the quality and proficiency within Federal, State, and local crime laboratory facilities. Therefore, from within the amounts provided for NIJ, OJP shall directly transfer \$5,000,000 to the National Institute of Standards and Technology [NIST] Office of Law Enforcement Standards [OLES] to support the continuation of the development of standards and standard reference materials.

**Regional Information Sharing Activities** —The Committee recommends \$30,000,000, an increase of \$3,000,000 above both the fiscal year 2012 enacted level and the budget request, to support activities that enable the sharing of nationwide criminal intelligence and other resources with State, local, and other law enforcement agencies and organizations. Such activities should address critical and chronic criminal threats, including gangs, terrorism, narcotics, weapons and officer safety or "event deconfliction," and should reflect regional as well as national threat priorities. In addition, funds shall be available to support local-to-local law enforcement data and information sharing efforts focused on solving routine crimes, especially in rural areas, by sharing law enforcement information not categorized as criminal intelligence. All activities shall be consistent with national information-sharing standards and requirements as determined by the Bureau of Justice Assistance.

## STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

Appropriations, 2012.....	\$1,162,500,000 <sup>1</sup>
Budget estimate, 2013 .....	\$ 781,500,000
Committee recommendation.....	\$1,058,918,000

The Committee's recommendation provides \$1,058,918,000 for State and local law enforcement assistance. The recommendation is \$123,918,000 below the fiscal year 2012 enacted level, and \$277,418,000 above the budget request because the Committee has rejected the administration's proposal to fund \$220,500,000 in discretionary programs through the mandatory Crime Victims Fund.

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<sup>1</sup> The administration proposed an additional \$220,500,000 through the Crime Victims Fund.

The Committee's recommendations are displayed in the following table:

**STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE [In thousands of dollars]**

Program	Committee recommendation
Byrne Memorial Justice Assistance Grants .....	\$392,418
SLATT Intelligence State and Local Training .....	(2,000)
State and Local Assistance Help Desk and Diagnostic Center .....	(4,000)
Criminal Justice Reform and Recidivism Reduction .....	(6,000)
VALOR Initiative .....	(5,000)
State Criminal Alien Assistance Program.....	255,000
Border Prosecution Initiatives .....	10,000
Byrne Competitive Grants .....	18,000
Victims of Trafficking Grants .....	10,500
Drug Courts .....	35,000
Mentally Ill Offender Courts .....	9,000
Residential Substance Abuse Treatment for State Prisoners .....	10,000
Capital Litigation/Wrongful Prosecution Review .....	3,000
Economic, High-tech and Cybercrime Prevention .....	11,000
John R. Justice Grant Program .....	4,000
Adam Walsh Act Implementation .....	20,000
Children Exposed to Violence Initiative .....	15,000
Byrne Criminal Justice Innovation Program.....	20,000
Review of Criminal Justice Systems Policies and Strategies .....	(2,000)
Bulletproof Vests Partnerships .....	24,000
NIST/OLES .....	(1,500)
National Sex Offender Website .....	1,000
Violent Gang and Gun Crime Reduction .....	5,000
National Instant Criminal Background Check System [NICS] .....	7,000
Criminal Records Upgrade .....	6,000
Paul Coverdell Forensic Science .....	12,000
DNA Analysis Backlog Reduction/Crime Labs .....	125,000
Debbie Smith DNA Backlog grants .....	(117,000)
Kirk Bloodsworth Post-Conviction DNA Testing grants .....	(4,000)
Sexual Assault Nurse Examiners .....	(4,000)
Court-Appointed Special Advocates [CASA] .....	6,000
Second Chance Act .....	25,000
Smart Probation .....	(4,000)
Tribal Assistance.....	35,000
Total .....	1,058,918

***Edward Byrne Memorial Justice Assistance Grant Program*** —The Committee recommends \$392,418,000 for Edward Byrne Memorial Justice Assistance Grants (Byrne-JAG). Funding is not available for luxury items, real estate, or construction projects. The Committee notes that, should States with high seizures of precursor chemicals, finished methamphetamine, laboratories, and laboratory dump seizures deem it a priority, Byrne-JAG grants may be used for anti-methamphetamine-related activities, including to support investigative task forces to locate or investigate illicit activities such as precursor diversion, laboratories, or methamphetamine traffickers.

The Department should strongly encourage State, local, and tribal governments to target funding to programs and activities that are in conformance with evidence-based strategic plans developed through broad stakeholder involvement. The Department is directed to make technical assistance available to State, local, and tribal governments for the development or updating of such plans.

***State and Local Assistance Help Desk and Diagnostic Center*** — Within the funds provided for Byrne-JAG, the Committee provides \$4,000,000 to support the State and Local Assistance Help Desk and Diagnostic Center. This Center provides the “one-stop” diagnostic, problem solving, and “aftercare” resources to help local communities identify, respond to, and begin to solve persistent public safety problems like gun violence, jail violence, gang homicides, and truancy.

***VALOR Initiative*** —The Committee recommends \$5,000,000 within Byrne-JAG for the Preventing Violence Against Law Enforcement Officer Resilience and Survivability Initiative [VALOR]. This is a national training initiative that promotes a culture of safety within Federal, State, local and law enforcement agencies by training officers to respond to and react better in deadly situations, such as ambush attacks, while on duty.

The Committee provides the requested increase of \$3,000,000 in response to the disturbing trend of rising numbers of police officers being killed, even as violent crime has decreased nationwide. According to the most recent FBI Uniform Crime Report on “Law Enforcement Officers Killed and Assaulted”, 72 officers were killed by perpetrators in 2011, a 25 percent increase from the previous year and a 75 percent increase from 2008. This marks the highest number of on duty police deaths in nearly two decades, excluding the September 11, 2001, attacks, and the 1995 Oklahoma City bombing. In many cases, the officers were trying to arrest or stop a suspect who had previously been arrested for a violent crime. The Committee expects Federal law enforcement to continue and expand on efforts to provide local police with information as to whether or not a suspect has a violent history, to the extent that transference of such information is allowable and available via Federal law enforcement databases, in an effort to prevent officer deaths.

***National Technical Assistance and Training*** —The Committee encourages the Department to continue its efforts to assist States in the development and use of criminal justice information systems that accelerate the automation of identification processes for fingerprints and other criminal justice data, and which improve the compatibility of State and local law enforcement systems with the FBI’s Integrated Automated Fingerprint Identification System [IAFIS].

***Human Trafficking*** —The United States is a destination country for thousands of men, women, and children trafficked largely from Mexico and East Asia, as well as countries in South Asia, Central America, Africa, and Europe, for the purposes of sexual and labor exploitation. Trafficking victims are subjected to physical, mental, and sexual abuse. Victims need various types of assistance to begin healing and recovery, including counseling, housing, medical care, support groups, and legal assistance.

The Committee’s recommendation provides \$10,500,000 for task force activities and services for U.S. citizens, permanent residents, and foreign nationals who are victims of trafficking, including no less than \$4,700,000 for victim services for foreign national victims of trafficking. OJP shall consult with stakeholder groups in determining the overall allocation of Victims of Trafficking funding, and shall provide to the Committee a plan for the use of these funds as part of the Department’s fiscal year 2013 spending plan. The spending plan should be guided by the best information available on the regions of the United States with the highest incidence of trafficking.

An effective national criminal justice response to human trafficking requires quick and accurate identification of victims along with immediate protection and support. The Committee supports further efforts to pursue evidence-based approaches that ensure that trafficking victims’ services are comprehensive, culturally competent, and use a trauma-informed care approach that maximizes safety, trust, and choice for survivors.

**Byrne Criminal Justice Innovation Program** —The Committee provides \$20,000,000 to fully support the administration's proposal for the Byrne Criminal Justice Innovation Program, which provides demonstration grants in communities to support innovative, evidence based approaches to fighting crime and improving public safety, as well as addressing its underlying problems. OJP will co- ordinate with the Department of Housing and Urban Development [HUD] and other agencies, to promote interagency collaboration and enable a wide range of new and existing partners to further stabilize neighborhoods that face the severest violence and crime.

Persistent crime and public safety problems, especially gang activity, cannot be addressed solely by law enforcement. These issues require a comprehensive interagency approach that enables law enforcement, educators, social services agencies, and community organizations to address both public safety problems and their under- lying causes. This program will build upon the approach of sup- porting communities that combine law enforcement, community policing, prevention, intervention, treatment, and neighborhood restoration.

**Byrne Competitive Grants** —The Committee's recommendation includes \$18,000,000 for competitive, peer-reviewed grants to pro- grams of national significance to prevent crime, improve the ad- ministration of justice or assist victims of crime. Within 60 days of enactment of this act, OJP is directed to provide a report and spend plan to the Committee, which detail the criteria and methodology that will be used to award these grants. The Committee expects that OJP will take all steps necessary to ensure fairness and objectivity in the award of these and future competitive grants.

**Drug Courts and Mentally Ill Offender Courts** —For the fourth straight year, the Committee's recommendation rejects the administration's proposal for a new Drug, Mental Health and Problem Solving Courts program. Instead, the Committee provides separate funding at \$35,000,000 for the Drug Courts program, and \$9,000,000 for Mentally Ill Offender Courts.

The Committee notes the distinct success of the Drug Courts and Mentally Ill Offender Courts grant programs. While the Committee recognizes the Department's attempt to consolidate grant pro- grams, the Committee rejects this proposal given that professionals in the field have made a clear distinction between the two pro- grams, and congressional support for maintaining separate pro- grams remains strong. However, the Committee encourages the Department to continue looking for ways to consolidate other, more duplicative grant programs.

**Residential Substance Abuse Treatment [RSAT]** —The Committee directs OJP to require applicants for the RSAT formula grant pro- gram to include an explanation of how they will coordinate the RSAT program's design and implementation with their State's sub- stance abuse agency. The Committee believes that collaboration with State substance abuse agencies will help to ensure that evidence-based practices and qualified personnel are available to assist offenders in addressing their substance abuse problems.

**Collaboration Among State Corrections, Alcohol and Drug Abuse, and Mental Health Program Directors** —The Committee encourages BJA to continue working with the Substance Abuse and Mental Health Services Administration [SAMHSA] to foster collaboration among the Association of State Corrections Administrators [ASCA], the National Association of State Alcohol and Drug Abuse Directors [NASADAD], and the National Association of State Mental Health Program Directors [NASMHPD].

**Bulletproof Vests** —Within the \$24,000,000 provided for bullet- proof vests, \$1,500,000 is to be transferred directly to the National Institute of Standards and Technology's [NIST] Office of Law Enforcement Standards [OLES] to continue supporting ballistic- and stab-resistant material compliance testing programs.

**DNA Backlog/Crime Lab Improvements** —The Committee continues its strong support for DNA backlog and crime lab improvements by recommending \$125,000,000 to strengthen and improve Federal and State DNA collection and analysis systems that can be used to accelerate the prosecution of the guilty while simultaneously protecting the innocent from wrongful prosecution. Within the funds provided, \$117,000,000 is for Debbie Smith DNA Backlog Reduction grants, \$4,000,000 is for Kurt Bloodsworth Post-Conviction DNA Testing grants, and \$4,000,000 is for Sexual Assault Nurse Examiners [SANE] grants.

DNA evidence is playing a larger role than ever before in criminal cases, both to convict the guilty and to exonerate those wrongly accused or convicted. This increased role places greater importance on the ability of investigators and prosecutors to handle crime scene DNA evidence to avoid contamination or destruction. There- fore, of the amounts provided in the bill for Debbie Smith DNA Backlog Reduction grants, up to 4 percent may be used to make grants to

provide training, technical assistance, education, and information regarding the identification, collection, preservation, analysis, and use of DNA evidence and samples for law enforcement and corrections personnel and court officers, and forensic science professionals. This is a minimal investment aimed at providing a maximum value return.

The Committee expects that OJP will make funding for DNA analysis and capacity enhancement a priority to meet the purposes of the Debbie Smith DNA Backlog Grant Program. The Committee notes that, according to DOJ, more than 70 percent of DNA funding provided in fiscal year 2012 will go to crime labs for DNA analysis to increase capacity and reduce DNA backlogs. The Committee directs the Department to submit a spending plan with respect to funds appropriated for DNA-related and forensic programs, and a report on the alignment of appropriated funds with the authorized purposes of the Debbie Smith DNA Backlog Grant Program, within 60 days of enactment of this act.

The Committee is pleased that GAO is moving forward with its analyses of DNA funding, commissioned in fiscal year 2012, and looks forward to receiving GAO's recommendations on how to better address State and local laboratory needs once the study is completed.

***Economic, High-tech, and Cybercrime Prevention*** —The Committee recommends \$11,000,000 for competitive grants to support and train State and local law enforcement agencies in the prevention, investigation, and prosecution of economic, high-tech, and Internet crimes, including the intellectual property [IP] crimes of counterfeiting and piracy, as authorized under the PRO-IP Act of 2008 (Public Law 110-403). The Committee encourages OJP to prioritize competitive grants to State and local public safety agencies, with an emphasis on enforcement to combat the IP crimes of counterfeiting and piracy.

***Cell Phone Digital Evidence*** —As smartphones and the Internet have become integral parts of daily life, these technologies have also become an integral part of a majority of criminal acts and enterprises, from drug deals by text to child pornography websites. Because more than 95 percent of all criminal cases are investigated and prosecuted at the State and local levels, the Committee is concerned that without the Department's support, the ability of State and local law enforcement to effectively investigate and prosecute cases involving digital evidence and computer-based crimes will diminish. The Committee encourages the Department to prioritize State and local assistance toward computer forensics and digital evidence training and investigations surrounding drug and violent crimes, and crimes against children.

***Collaborative Efforts To Fight Cybercrime*** —According to the Norton Cybercrime Report 2011, more than 69 percent of online adults have been a victim of cybercrime in their lifetime, resulting in an annual price of \$388,000,000,000 globally. The Committee is aware of the important progress that has been made in the fight against cybercrime by collaborative efforts that bring together prosecutors, researchers, and DOJ in a multidisciplinary effort to identify and prosecute cybercrimes such as "phishing." These collaborative efforts involve experts in computer forensics that help to identify the source of phishing, train prosecutors in the intricacies of the crime and how best to prosecute cybercriminals, and conduct research to stay ahead of cybercriminals and their ever changing tactics. The Committee believes these collaborative efforts have made good progress against cybercrime and encourages the Department to continue funding these important initiatives.

***National Instant Criminal Background Check System [NICS]*** — According to OJP, jurisdictions continue to struggle with meeting the eligibility requirements mandated by the NICS Improvement Amendments Act (Public Law 110-180). At present, only 16 States are eligible for grants. The recommended funding level reflects the fact that there is a significant amount of carryover funds of approximately \$6,000,000 available for obligation under this program.

The Committee directs the Department to submit a report to the Committee within 120 days after enactment of this act describing the Department's efforts to implement provisions of Public Law 110-180. The report shall include: a detailed list of the Department's activities to train and support Federal and State agencies in working toward compliance for sharing domestic violence, drug abuse, mental health, and felony records with the FBI's NICS database; updated data on the number of mental health, drug abuse, felony, and domestic violence records submitted to NICS to date by Federal agencies and by each State; if the penalties for noncompliance listed in Public Law 110-180 have been applied to States and, if so, to which States; and an explanation as to why penalties were not applied to States. Finally, the report shall describe the Department's enforcement plan to bring Federal and State agencies into compliance with the NICS Improvement Amendments Act.

***Sex Offender Location, Arrest and Prosecution/Adam Walsh Act Implementation*** —The Committee provides \$20,000,000 to help States, the District of Columbia, Indian tribes, and territories come into compliance with the Sex Offender Registration and Notification Act [SORNA], as well as provide for sex offender management and treatment. These grants will provide critical support to the comprehensive, nationwide effort to locate, register, monitor, apprehend, prosecute, and manage child sexual predators and exploiters that was envisioned by SORNA.

***Tribal Assistance*** —The Committee provides \$35,000,000 for tribal grant programs. The Committee expects OJP to consult closely with tribal stakeholders in determining how tribal assistance funds will be allocated among grant programs that help improve public safety in tribal communities, such as grants for detention facilities under section 20109 of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), civil and criminal legal assistance as authorized by title I of Public Law 106–559, tribal courts, and alcohol and substance abuse reduction assistance programs. The Committee directs OJP to submit, as part of the Department’s spending plan for fiscal year 2013, a plan for the use of these funds that has been informed by such consultation. The Committee notes that the bill includes additional grant funding for tribal law enforcement programs through COPS and OVW.

***Children Exposed to Violence*** —The Committee’s recommendation includes \$15,000,000 for the Children Exposed to Violence Initiative. These funds will be used to build on investments made by Congress in recent years to advance effective practices at the State, local, and tribal levels that help children and adolescents who are victims of, or witnesses to, violence in their homes, schools, and neighborhoods, and may suffer devastating consequences beyond the physical harm. According to DOJ’s National Survey on Children Exposed to Violence, 61 percent of children experienced some type of violence, crime, or abuse in 2011 alone. Without the proper support and treatment, children who survive serious early-life trauma are more likely to abuse drugs and alcohol; suffer from depression, anxiety, and post-traumatic disorders; fail or have difficulty in school; and become future victims or offender.