



GOVERNOR'S JUVENILE JUSTICE COMMISSION

JIM DOYLE, GOVERNOR

DEIRDRE GARTON, CHAIR

December 28, 2007

The Honorable Edward M. Kennedy
United States Senate
Judiciary Committee
317 Russell Senate Office Building
Washington, DC 20510

Dear Senator Kennedy:

I was very pleased and honored to testify at the December 5, 2007, hearing of the Judiciary Committee entitled, "Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities." I truly appreciate the committee's consideration of and attention to the issues related to the reauthorization of this important statute.

Today, I am writing in response to questions you have posed to me, received December 18, 2007, as follows:

1. Disproportionate minority contact is one of the most important issues facing the juvenile justice system. It's a problem in every state in the country. This year, the federal Advisory Committee on Juvenile Justice's Annual report indicated that 38 states identified disproportionate minority contact as their most troublesome issue. Minority youth are overrepresented at every stage of the juvenile justice system and are treated more harshly than majority youth at every stage of the juvenile justice process.

For example, African Americans make up 16% of the population of youths in America; however, they represent 28% of the juvenile arrested, 37% of the juveniles detained, 35% of the juveniles waived to the adult criminal court and 58% of the juveniles sent to adult state prisons. The reasons for the difference in juvenile justice processing are complex and much work is needed to deal effectively with these challenges. Recent research, however, has indicated that disproportionate minority contact cannot be solely explained by difference in offending behavior among racial groups.

Over-representation of minority youth calls into question the fundamental fairness of our juvenile justice system and decreases the legitimacy of the entire criminal justice system. The JJDPa mandates that states assess and address this issue, but there is not a requirement that states take steps to reduce racial disparities in their juvenile justice systems.

a. Would you support strengthening the disproportionate minority contact core protection in the JJDP Act? If so, please provide specific recommendations on how it could be strengthened?

First of all, I thank you for your important statement regarding the JJDP core requirement on reduction of Disproportionate Minority Contact (DMC). I agree with your statement and wholeheartedly support strengthening the DMC core requirement of the JJDP. Requiring states and localities to take action steps toward collecting data, analyzing the problem, developing programs to address the problem, and monitoring and evaluating progress are all consistent with allowing states to move forward and strengthen the DMC core requirement. As a word of caution, DMC is a very difficult problem to address, fraught with emotion and defensiveness. The key to success is to allow states and localities to come to the question in a problem-solving manner (please see my response to part b, below).

It is critical to increase federal partnerships with states and localities for provision of technical assistance and to use a growth model for success which recognizes progress and developmental steps. This is the philosophy you see in the approaches to DMC reduction supported by the Annie E. Casey Foundation and the John D. and Catherine T. MacArthur Foundation, among others, who are pioneering in reducing racial/ethnic disparities in juvenile justice. It will be crucial to guard against amending the JJDP in a manner that is simply then used as a way for OJJDP to find states out of compliance.

b. What steps need to be taken to address the disparate treatment of minorities in the juvenile justice system?

The Wisconsin State Advisory Group has been addressing DMC for more than a decade. Using Title II Formula Funds, we commissioned a study to help us understand which communities had troubling raw numbers. As a result, Wisconsin could focus the allocation of the federal dollars to the communities that most needed to address the issue of disproportionality. That effort along with the focus on evidence-based services, which we highlighted in *What Works Wisconsin*, gave us the road map for the data collection that we required of each of our counties and the programming that we supported to address DMC.¹

Our goal in encouraging evidence-based practices was not to impose from the top down, but for each community to bring together its stakeholders to look at their own data and then choose or fashion their own programs using the most cost effective models available.

The success of the Rock County DMC programming followed from being effective in five main areas:

- (1) using data to drive decisions;
- (2) incorporating research-based principles and evidence-based programs into our solutions;
- (3) making sure new programs were coordinated as part of a broader service continuum;
- (4) sustaining mechanisms for continuous monitoring and improvement; and
- (5) effective collaboration among system leaders and stakeholders.

¹ Small, Stephen, Reynolds, Arthur, O'Connor, Cailin, Cooney, Siobhan, *What Works Wisconsin*, <http://oja.state.wi.us/docview.asp?docid=6444&locid=97>

The DMC Advisory Board has remained focused on points in the system that they could control. They did not allow themselves to become sidetracked by a discussion of larger socioeconomic and societal issues (i.e., racism, poverty). Also, the Advisory Board identified and focused on the decision point they felt they were in the strongest position to address: placement in secure detention. Once they addressed that decision point, they could build on their success to address others.

(1) Use of data

In 2002, they conducted a data analysis to better understand why more African American youth were in the Rock County detention center than Caucasian youth. African Americans represent the predominant minority population in Rock County. Rock County gathered data to determine:

- (1) Who was the primary detaining authority in detention admissions?
- (2) What offense types resulting in secure detainment had the highest disproportionality?
- (3) What time of day were incidents taking place that were leading to detainment?
- (4) Where were incidents occurring that led to detainment?

The data showed:

- A significant number of African American youth who were being admitted to secure detention were already on probation and were being ordered to detention by their probation officers as a result of probation violations that, from a public safety standpoint, were relatively minor offenses.
- The offense types resulting in a detainment that had the highest degree of disproportionality of African American youth were: disorderly conduct, misbehavior at school, and minor drug offenses.
- The majority of incidents leading to detainment occurred during school hours, with a significant percent occurring at a school location.

From the analysis of the data, the DMC Advisory Board concluded that developing and utilizing non-detention sanction alternatives for appropriate probation violation cases could have a positive impact on the disproportionate number of African American youth securely detained. They also concluded that schools and law enforcement needed to coordinate more closely.

Thus, the data analysis drove the decision to create program modules for the sanctioned youth to complete in lieu of being sanctioned to the Detention Facility. The educational modules were directed to students who had engaged in disorderly conduct, school misbehavior and minor drug offenses to address those behaviors. A new youth worker was responsible for delivering those modules, coordinating with probation officers to make sure the modules were utilized in all appropriate cases and coordinating with schools and law enforcement.

(2) Research-based Principles and Evidence-based Programs

Using alternatives to secure detention is in itself a research based practice. Research indicates that placement in secure detention does not deter most juveniles from engaging in future criminal

acts and carries a profound negative impact on young people's mental and physical well being, education and employment.

The educational diversion modules incorporated evidence-based programming, such as Prime for Life. As our DMC programming expanded, they added a mentoring component based on Michigan's Adolescent Diversion Project (ADP) and a first time offender program based on California's Repeat Offender Prevention Program (ROPP).

Because evidence indicates the most successful services are delivered either at home or in a home like environment, the location of service delivery was chosen based on its inviting and homelike qualities and accessibility to youth and their families (The Merrill Community Center, which is located in the heart of a challenged neighborhood in which many African American youth on probation reside).

Because evidence indicates that the most successful programs are individually tailored in type and intensity to each youth/family based on a risk and needs assessment, a multi-disciplinary assessment component was added to the programming.

(3) Part of a Broad Continuum

As the program progressed, the DMC Advisory Board and Rock County worked to provide links to community organizations for the youth wanting and needing continued structure after they completed program modules. They also referred youth to the mental health system to provide services to youth and families in the programs who needed and would accept in home family counseling services.

(4) Continuous Monitoring & Improvement Mechanisms

Rock County developed a commitment to data analysis and the use of data as a management tool to monitor the effectiveness of the program and identify areas for improvement. To do this, Rock County continues to collect and analyze data relating to the monthly percentage of minority admissions, Rock County Human Services Department (HSD) RockStat process. Based on the City of Baltimore's highly successful CitiStat program, HSD RockStat involves: monthly meetings with division managers and supervisors to review program and fiscal performance utilizing a series of outcome based data reports; meetings utilize multimedia aids and are administered in a highly structured format where follow-up assignments and corrective actions are meticulously tracked.

(5) Effective Collaboration Among System Leaders and Stakeholders

Because there are so many actors involved with the juvenile justice system (i.e., courts, probation, schools, police) and so many stakeholders that have unique insights into how improvements can be made (i.e., parents of youth who have had contact with the system, youth who have been through the system, nonprofit agencies who serve youth in the system and citizens in general), Rock County was committed to using its DMC Advisory Board fully. It gave and gives input to the analysis and program implementation.

JJDPA emphasizes and has requirements regarding some of the areas discussed above. Most of these concepts, while not completely foreign to Rock County, were not institutionalized.

Programming made possible through funds under the JJDPa helped these concepts take root. They are now part of the philosophy and culture of the Rock County Human Services Department.

I would urge you to consider strengthening amendments to the DMC core requirement that would provide for a systemic approach based on data, more guidance regarding implementation of best practices and greater evaluation of innovative models.

Many thanks for the opportunity to respond to your questions. Please feel free to call upon me if any additional information can be beneficial to your efforts to improve the federal response in support of state and local efforts and improvements in juvenile justice. I may be reached at 608-266-3323. You may also call upon Tara Andrews, Deputy Executive Director for Policy, at the Coalition for Juvenile Justice, a national leadership association of State Advisory Groups based in Washington, DC: 202-467-0864, ext. 109.

Sincerely,



Deirdre Wilson Garton
Chair, The Wisconsin Governor's Juvenile Justice Commission