

Testimony of

# Deirdre Wilson Garton

December 5, 2007

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Chair of the State Advisory Group for Wisconsin  
Senate Judiciary Committee  
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Re: Reauthorization of the Juvenile Justice and Delinquency Prevention Act of 2002

Let me begin by thanking the committee for asking me to testify about the reauthorization of the JJDP Act. It is an honor to come before you and talk about the many successes and some of the challenges in the area of juvenile justice from one state's perspective, Wisconsin.

I am a lawyer, a former prosecutor and currently a business owner in Wisconsin. I come to you today primarily as the Chair of the Governor's Juvenile Justice Commission in Wisconsin, our State Advisory Group under the Act. Our State Advisory Group is a long-standing member of the Coalition for Juvenile Justice which serves as the national nonprofit association for all State Advisory Groups. I am also a member of the Federal Advisory Committee on Juvenile Justice for OJJDP, which has made recommendations to the President and Congress annually since 2004 in our Annual Report.<sup>1</sup> I have been involved with juvenile justice and child protection issues for more than twenty years, both in private practice and in public service. In the '90s I was the Deputy District Attorney for the Juvenile Division of the Dane County District Attorneys Office and in that capacity prosecuted both juvenile delinquency and child protection cases which included dependent and uncontrollable children as well as mental health cases involving children. From the first time that I read *In re Gault* in a Constitutional Law class as an undergraduate, I knew that this was the area of law that I would focus on for my career.

I am going to talk about two things in my comments this morning. First, the value of prevention and compliance programs and the Title V incentive grants under the Act. Second, what I view as the threats to the principles underlying the JJDP Act which include inadequate funding of states' prevention programs and the states' deteriorating relationships with the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

Let me start, however, by stating that the landscape of juvenile justice has changed dramatically in the last decade for one good reason: because we know what works. A significant amount of the needed research has been done.

I would urge the Congress to provide funding under the JJDP Act and elsewhere to pursue the gaps in the research on best practices and to substantially increase the training and technical assistance provided to states and communities that will help them embrace evidence based delinquency prevention and intervention programs that work. The JJDP Act is the critical preventative framework that can support all of these activities, and OJJDP has made positive strides through their Model Programs Guide to disseminate best practices to the states.

As a former prosecutor and one who has worked closely with law enforcement directly on cases as well as system improvements, my colleagues and I were always interested in what works to make our communities safe. And all of us in law enforcement know that prevention works.

Let me tell you about how Title V of the Act and the requirements of Title V can positively affect delinquency prevention and one of the core requirements of the JJDP Act, disproportionate minority contact (or DMC). In Wisconsin we have a significant issue with DMC in the juvenile system, and the adult system for that matter.<sup>2</sup> I am currently a member of the Governor's Commission on Reducing Racial Disparities and what our inquiries tell us on

the juvenile as well as the adult side is that the reasons for disparities among the races are not easy to diagnose and one solution will not work in every community. Each community has a different profile and different reasons for the disparity at different decision making points.

Title V by its very structure requires that communities engage in an evidence-based process:

- Building community readiness through building of partnerships among justice and community stakeholders
- Data collection of risk and protective factors to identify problem areas and monitor improvements
- Use of evidence based programs

Wisconsin, using grants from the State Advisory Group, which helped to leverage other funding commitments from our Governor, Jim Doyle, funded six pilot counties to address DMC. One of those is Rock County, home of Janesville and Beloit. Janesville and Beloit in the southern part of the state are both industrial towns located on a major interstate between Minneapolis, Madison and Chicago. Beloit has a larger African American community than Janesville and more challenges with regard to residents living in poverty.

A lot was happening in Rock County and the state in the early 2000s:

- Rock County's DMC numbers in the early 2000s were among the worst in the state.
- Juvenile justice funding was cut at the federal level. That cut prompted our State Advisory Group to strategically use those dwindling dollars more effectively by promoting evidence based services and practices.<sup>3</sup>
- Rock County wanted to address prevention issues as well as detention reform and had applied to the State Advisory Group to become a Title V county in Wisconsin.

Rock County got the Title V grant, as well as a number of other juvenile justice funds, and put into place a comprehensive approach to reducing racial disparities. The federal grants along with the outstanding technical assistance that comes with a Title V grant from OJJDP helped Rock County create the community awareness and partnerships necessary to begin to tackle the complex issues that cause DMC.

Using a variety of JJDP Act funds, including Title II Formula Fund grants and especially Title V funds, as well as funds allocated through the Juvenile Accountability Block Grant (JABG) program, leaders in the county put in place several programs:

- an electronic monitoring program to address accountability for system-involved youth that reduced the need for secure detention of youth
- a proven prevention program, CasaSTART, located in two middle schools serving the large populations of high risk youth
- a "one-stop" service center for youth diverted from detention located in a local community center in a high need neighborhood in the heart of Beloit
- and an evidence-based youth mentoring program.

The results have been excellent. Rock County has reduced the number of youth of color held in secure detention by 44%, with associated gains in family well being and community safety. They have reduced the use of detention for all youth by a third. Rock County has been diverting more minority youth away from the juvenile justice system so that in 2006, they report that there is no racial disparity at all when it comes to diversion of youth from the juvenile justice system. They have also reduced their juvenile correctional placements by half. This shift alone has resulted in

significant cost savings for the county. In 2002, 24 youth were placed in juvenile corrections at a cost of \$1.7 million. In 2006, only thirteen youth were placed in juvenile corrections at a cost of just over \$1 million. The only way that Rock County was able to reduce those costs was with the investment of \$950,000 of federal funds, directed by the State Advisory Group, into those evidence based programs over six years.<sup>4</sup> Most significantly, the dividends from that investment in children and families as well as infrastructure in Rock County will continue to pay out for many years to come.

Let me caution, however, that the work is not done. Through the community partnerships that the county has developed they have identified a number of areas that need improvement: better coordination with law enforcement, improved substance abuse services to youth, employment services for youth, in-home family treatment and aftercare services.

Therefore, I urge the Congress to consider carefully ways to strengthen the research, guidance, training and technical assistance, but most importantly the appropriations, devoted to DMC reduction under both Title II and Title V of the JJDP Act. Frankly, without the kind of compliance support and prevention funding that Title II and Title V and other critical federal justice funds offer, the county will have a difficult time piloting new programs, especially critical investments in prevention programs.

The next significant contribution directly resulting from the JJDP Act in Wisconsin that I want to tell you about is a firearm offender's program in Milwaukee. While not a Title V program, it is a program that could not have been developed without an infusion of significant federal funds. It is an illustration of how important it is that adequate funding for these programs continues. It is also an illustration of how important the JJDP Act paradigm is to success by fostering partnerships by the state with local governments and community based programs that know what their communities need.

Using JABG funds in 1999, Milwaukee in partnership with the community based organization, Running Rebels, developed an in-community program for first time firearms offenders in Milwaukee who otherwise would likely have gone into juvenile corrections. The program focused on two things:

- community safety by intensive in community supervision - In the first 13 weeks of the program the firearms monitor is required to make 91 homes visits and 65 school visits.
- competency development for program participants through participation in pro social activities including school and the programs of the host organization, Running Rebels in Milwaukee

The results of the Firearms program have received national attention.<sup>5</sup> In following up on 130 successful graduates of the program, only 12% reoffended within a year of completion and only 21% reoffended within two years. That compares to the recidivism rate for similar youth placed in juvenile corrections of 33% at one year and 37% at two years.

The Firearms Program along with the FOCUS, a JJDP Act funded program which provides wrap around services in Milwaukee, has helped to lower Milwaukee's juvenile correctional placements from a high in 1996 of over 400 youth to a low in 2005 of just over 100 youth, saving the county millions of dollars. More importantly this program has created safer communities and brighter futures for these youth. (In 1995, there were 7377 juvenile arrests for violent index crime in Milwaukee County. In 2004, the number was 4197). The Act, especially the infusion of federal funding to states and localities to spur new evidence-based programs, is playing a key part.

What is distressing is that the decrease in federal funds over the last six years has been detrimental. In fact, Milwaukee has reached a tipping point. In 2006, Milwaukee sent close to 200 youth to corrections, up from 100 in 2005. This year Milwaukee has already sent more than 200 youth to juvenile corrections. Why? One likely factor is that with reduced funding, comes reduced treatment slots across critical programs, and no new programs to meet the changing needs of youth and families. Even though we know that our state's programs work, the reduction of federal dollars has reduced the number of youth that can participate.

This chart dramatically illustrates the impact of the reduction in Federal Funding.

## Federal JJ Funding to Wisconsin (adjusted to 2007 dollars) vs. Milwaukee Juvenile Correctional Commitments

In my comments thus far I have tried to note that OJJDP has clearly been a source of help and direction over the last several years. But as a professional who has worked in the area of juvenile justice and delinquency prevention for over twenty years, I have to also point out the problems that I see in OJJDP, particularly with regard to relations with the states. These problems have to do primarily with issues of transparency and insufficient partnership.

As a member of the Federal Advisory Committee on Juvenile Justice, I know that in the 2007 Annual Request for Information thirty-eight (38) out of forty-seven (47) responding states have identified DMC as the #1 issue of concern, as they have in each request that we have made. While OJJDP has addressed DMC over the years as I noted earlier, that focus has declined in the last few years. OJJDP and the Office of Justice Programs have failed to conduct or fund research that identifies evidence based approaches to address DMC. In addition, we know that bringing law enforcement and schools to the table will most significantly impact DMC. But OJJDP has done little to facilitate such dialogue aside from providing a grant to the Coalition for Juvenile Justice to sponsor a conference in 2006. Promises to develop a police academy curriculum as a result of that conference have not been fulfilled. Programs put in place by states using JJDP Act funds which are producing positive outcomes, such as the programs in Rock and Milwaukee Counties, have not been evaluated because so little money is allocated to any research.

Why is this the case? It's hard to say since the Annual Report to Congress required to be submitted by OJJDP has not been submitted for more than two years. In the past, those Annual Reports to Congress from OJJDP provided guidance to states to help them decide on focus areas for work and to ensure that they are compatible with OJJDP's direction.

Moreover, OJJDP's current focus on compliance with the core requirements of the JJDP Act has become adversarial and capricious rather than supportive. In Wisconsin, for example, we have been found out of compliance on the deinstitutionalization of status offenders (DSO) in 2005. I will be the first to admit that Wisconsin has had shortfalls in the area of compliance monitoring. Yet, what has made the entire process even more difficult is the set of changing definitions and interpretations set forth as rules by OJJDP, in absence of public discourse, dialogue with states and outside of the federal rulemaking process. New and changing interpretations of compliance rules have resulted in months of unnecessary work and diversion of resources.

Wisconsin has appropriately been penalized with the 20% reduction in its Title II Formula Funds allocation as we are diligently addressing the DSO issues identified. At the same time, however, we have learned that other states are also out of compliance, yet have still received their full funding. Trying to determine how these decisions are being made is nearly impossible because the standards for decision making were developed outside the appropriate rule making process, and with no regard for transparency or congressional oversight.

From my comments today, I hope the Committee understands two things. First, the federal partnership with the states to promote delinquency prevention and juvenile justice improvements is in danger. It is in danger in two ways.

The first danger is inadequate funding. Our programs that we know work are reaching a tipping point as illustrated by the Milwaukee, Running Rebels program. Treatment slots are drying up. And without adequate Title V funds and other juvenile justice funding we can't even begin to make an impact on DMC. When our state SAG goes to a county board in rural Wisconsin whose demographics are changing because of a growing minority population, we cannot just mandate that they address the issue of DMC. We have to offer them something. That something is guidance, examples of evidence based programs that produce positive change, and the federal funding to back it up. In Wisconsin we want to get ahead of this issue. Help us do that by returning to the 2002 funding levels for Title V, JABG and Formula Grant funds.

The second danger is the deteriorating nature of the states' relationships to OJJDP. States need transparency and an over-arching goal of partnership from OJJDP. Because of the adversarial and capricious nature of OJJDP's current approach to compliance, and the lack of meaningful communication and transparency, Wisconsin and I dare say other states are losing trust in OJJDP. That trust must be earned again by increasing the Administrator's and the agency's commitment to developing and disseminating an even more significant body of best practice knowledge,

ensuring federal funds to support the core requirements and the State Advisory Groups, and engaging in an appropriate rule making process which guarantees public comment, as well as consistent and transparent treatment of all states.

Second and most importantly, the scheme that Congress fashioned in the JJDP Act in 1974 was and is of great value. Without the unique partnership that the JJDP Act has struck with states and localities to develop programs that meet their changing and unique needs over time, Wisconsin would not have made the strides that we have on improving outcomes for our youth caught in the juvenile justice system.

With a strong JJDP Act in place, as well as greater congressional support and more adequate appropriations with few or no earmarks, particularly from Title V, I feel confident that all of the benefits of the JJDP Act will be realized nationwide for the betterment of youth and families, and for the safety of our communities.

Thank you so much for the opportunity to discuss these issues with you today. I am anxious to answer any questions that you may have.

1 Federal Advisory Committee on Juvenile Justice, Annual Report 2007, <http://www.facjj.org/annualreports/FACJJ%20Report%20508%201126.pdf>.

2 And Justice for Some: Differential Treatment of Youth of Color in the Justice System, January 2007; Mauer, Marc, King, Ryan S., Uneven Justice: State Rates of Incarceration and Race, The Sentencing Project, July 2007, [http://www.sentencingproject.org/Admin/Documents/publications/rd\\_stateratesofincbyraceandethnicity.pdf](http://www.sentencingproject.org/Admin/Documents/publications/rd_stateratesofincbyraceandethnicity.pdf), Mayrack, Brenda R., Race and Sentencing In Wisconsin: Sentence and Offender Characteristics Across Five Criminal Offense Areas, Wisconsin Sentencing Commission, August 2007.

3 Aos, Steve, Phipps, Polly, Barnoski, Robert, Lieb, Roxanne, The Comparative Costs and Benefits of Programs to Reduce Crime, Washington State Institute for Public Policy, July 2001.

Inspired by the work of the WSIPP's cost benefit analysis, the Wisconsin State Advisory commissioned a similar study. What Works, Wisconsin focused on juvenile prevention and intervention programs and more importantly sorted through the studies to find the common features of effective programs to help already existing programs improve their designs to incorporate effective features. In addition, we have funded ongoing Research to Practice Briefs that give communities more resources on particular topics in using evidence based services, and we have funded the development of as a computerized self assessment tool. <http://www.uwex.edu/ces/flp/families/whatworkswisconsin.pdf>

4 JABG = \$209,184; Title II and Byrne Grant Funds = \$450,000; Title V = \$275,000.

5 The Milwaukee Firearms Program, administered by Running Rebels, received an award from OJJDP in October of 2007 for "Excellence in Juvenile Justice Programming."