The background of the cover features a large, semi-transparent image of the Wisconsin State Capitol building, showing its iconic dome and classical architectural details. At the top of the page, there are decorative wavy bands in red and white, reminiscent of the American flag.

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*Attorney General*

# *2016 Annual Report to Governor and Legislature*

*Governor's Juvenile Justice Commission*



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## CONTINUING A NEW COURSE FOR COMPLIANCE AND JUVENILE JUSTICE

The Governor's Juvenile Justice Commission (Commission) serves as the state advisory group under the federal Juvenile Justice and Delinquency Prevention Act (JJDP) and the juvenile crime enforcement coalition to administer the federal Juvenile Accountability Block Grant (JABG). The Commission oversees how federal monies are spent at the state level. The Wisconsin Department of Justice (DOJ) serves as the designated state agency to develop a three-year plan for juvenile justice system improvement and administer the federal funds received under the JJDP and the JABG.

In 2016, the Commission continued to face the challenge of not having access to previously awarded Title II Formula Funds under the JJDP. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) placed a special condition prohibiting the obligation, expending or draw down of funds from 2013-MU-FX-0059 (FY 2013 and 2014), 2011-JF-FX-0061 and 2012-JF-FX-0042. The OJJDP scheduled and conducted a compliance monitoring field audit in Wisconsin from June 15 to June 19, 2015. The DOJ applied for FY 2015 Title II Formula Funds and OJJDP awarded 2015-JF-FX-0040 on September 30, 2015. One of the Special Conditions of the Award was that the "recipient may not obligate, expend, or draw down grant funds until (1) the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has issued a final report of the compliance audit conducted June 15-19, 2015, to assess the adequacy of the state's system of monitoring from 2009 to

the present, pursuant to section 233(a)(14) of the Juvenile Justice and Delinquency Prevention Act; (2) the grantee has sufficiently addressed the issues and findings in the audit report; (3) OJJDP has closed the audit and issued a closure letter; and (4) a grant adjustment notice (GAN) has been issued removing this special condition."

The DOJ received the *Compliance Monitoring Audit Report* on December 18, 2015, which included 13 recommendations. The DOJ submitted detailed responses to the recommendations on February 4, 2016. OJJDP provided a "Status of Recommendations as of April 26, 2016," and DOJ submitted detailed responses on May 16, 2016. By letter dated August 23, 2016, OJJDP concluded that DOJ addressed the audit recommendations and closed the audit. The closeout letter informed DOJ that OJJDP referred the status of the Title II Formula Funds to the Office of Justice Program's Office of General Counsel.

In response to the OJJDP field audit, the DOJ expanded its monitoring universe to include all law enforcement departments; both secure [having a secure characteristic; namely, a locking holding cell, locking interview room, cuffing bench, ring or bar] and non-secure [does not have a secure characteristic]. Thus, Wisconsin's monitoring universe previously reported to total just over 400, now totals 822 facilities. The DOJ must strive to inspect 100% of all secure facilities in the monitoring universe once every three years and a minimum of 10% of all facility types must be inspected annually. In addition, in June 2016, the DOJ revised the *State of Wisconsin Compliance Manual*, Implementing the Core

Requirements of the Juvenile Justice and Delinquency Prevention Act of 2002, with significant input from OJJDP.

Effective October 30, 2015, OJJDP implemented a new policy on [“Monitoring of State Compliance with the Juvenile Justice and Delinquency Prevention Act”](#) (Policy). The Policy changes the data reporting period from the calendar year to the federal fiscal year with the Compliance Monitoring Report due January 31. On July 15, 2016, the DOJ submitted its Compliance Report, which covered the first nine months of 2015; namely, January 1, 2015 through September 30, 2015. The DOJ resumed compliance work on October 1, 2016, for the period from October 1, 2015 through September 30, 2016. The OJJDP Policy has reduced the data collection timeframe and compliance inspection period from six months to three months. The DOJ hired an additional LTE Compliance Monitor to assist with meeting the aggressive Policy timeframe.

The DOJ continues to work with the Annie E. Casey Foundation (AECF) to advance the [Juvenile Detention Alternatives Initiative \(JDAI\)](#) model adopted in three pilot sites in 2012. The system improvement and reform efforts have continued in 2016; albeit without Formula Funds. Related to the JDAI work is the Detention Risk Assessment Instrument (DRAI) Committee comprised of the three pilot sites (Manitowoc, Milwaukee and Racine Counties) and four additional counties; namely, La Crosse, Outagamie, Rock and Waukesha. The DRAI is designed to ensure that youth are placed in detention for the necessary and appropriate reasons. The DOJ obtained grant funding for an independent

contractor to develop a Microsoft Access database customized for Wisconsin’s weighted variables and placement scales identified in the DRAI. Finally, the AECF provided funding for delegates from the three pilot sites to participate in a [Model Site Visit in Santa Cruz, California](#). By participating in JDAI, Santa Cruz was able to sharply reduce its detention population while concurrently experiencing a reduction in juvenile crime. Santa Cruz's detention reform efforts resulted in saving the county millions of dollars by avoiding the construction and staffing of a new detention facility. The Model Site Visit took place October 17-20, 2016.

## Address/Reduce Disproportionate Minority Contact

The Commission is committed to working with the Wisconsin Department of Justice (DOJ) to promote policies, practices, and system changes that reduce disparate practices and their impacts on minority youth. The Commission’s DMC Committee focused on the implications of and factors contributing to disproportionate minority representation in the juvenile justice system. In 2016, the Commission continued to prioritize DMC projects by having the DOJ issue a JABG grant announcement to assist units of local government in developing strategies to reduce DMC that will be sustainable and measurable in some fashion. A list of the DMC grants active in 2016 appears at the end of this Report.

## Protecting Youth In The Juvenile Justice System

To receive its share of the federal formula allocations, Wisconsin must demonstrate

compliance with the four core requirements of the JJDP:

1. Deinstitutionalization of Status Offenders (DSO);
2. Removal of juveniles from adult jails and lockups (Jail Removal);
3. Separation of juvenile and adult inmates (Sight and Sound Separation); and
4. Reducing Disproportionate Minority Contact (DMC).

Wisconsin monitors for compliance with the first three core requirements by conducting on-site inspections and reviews of admissions logs for secure juvenile detention facilities, adult jails, adult lockups, and other secure facilities. In addition, a survey is mailed out each year to all other law enforcement departments that have the potential to hold youth, including jails, lockups and detention centers. Over the past several years, Wisconsin has developed a monitoring system that builds on the positive relationship the Commission and the DOJ have developed with other agencies and the local facilities. That same relationship-building has been a part of the visits to non-secure facilities to confirm the nature of their facilities is non-secure.

The Commission approved the use of Title II Formula Funds for DOJ to rebuild the Juvenile Secure Detention Registry (JSDR) because the original data driven web application is almost 20 years old. It was originally developed at the Office of Justice Assistance that no longer exists, and is currently hosted at the Department of Administration, Department of Enterprise

Technology. The database runs on a SQL Server in 2000 compatibility mode and the technology is outdated. However, since OJJDP placed a special condition on all of the Title II Formula Funds, this project has come to a standstill. The design and implementation estimate is considerably higher than anticipated. In June 2016, the Commission Chair wrote a Memorandum to Governor Walker requesting state funding be allocated in the 2017-19 budget to support the development and implementation of a new JSDR.

Wisconsin's compliance with the fourth core requirement is maintained through the funding of DMC-reduction initiatives managed by various local units of government. Conducting trainings of system participants whose decisions impact custody decisions is an additional part of the DMC-reduction effort. In collaboration with the JDAI effort in Wisconsin, seven sites are participating in a committee initiative to develop and implement a Detention Risk Assessment Instrument (DRAI) to ensure that detention is used only when indicated through a scoring process.

The OJJDP informed Wisconsin in a letter dated August 26, 2016, that Wisconsin did not have an adequate system of monitoring for compliance during the calendar year 2013 data period. Further, Wisconsin provided no other valid data from calendar year 2013 to support a different compliance determination. Thus, Wisconsin's FY 2016 Title II Formula Grant award was reduced 60%, which reduced the award to \$259,680. However, in terms of the DMC requirement, the letter retained what OJJDP stated in its original compliance determination letter dated September 30, 2015, that "Wisconsin

is not out of compliance.” The OJJDP recognized Wisconsin’s efforts aimed at DMC reduction, but “strongly encourages your state to prioritize and increase these efforts aimed at eliminating systemic racial and ethnic disparities.”

## THE FUTURE OF JUVENILE JUSTICE

Wisconsin is currently in year two of the 2015-17 Three-Year Plan for Title II Formula Funds. The Commission identified the following priorities, which the DOJ submitted in its FY 2015 application for Title II Formula Funds:

1. Restore compliance with the Juvenile Justice and Delinquency Prevention Act (JJDP);
2. Address/Reduce disproportionate minority contact/disparities (DMC);
3. Implement evidence-based practices/promising practices; and
4. Address mental health/substance abuse issues.

As of November 2016, all of Wisconsin’s Title II Formula Funds are subject to the special condition prohibiting the obligation, expending or draw down of funds. This freeze on previously awarded grant funds has severely limited nearly all aspects of juvenile justice work in Wisconsin.

The Commission and the DOJ are committed to restoring and maintaining Wisconsin’s compliance with the JJDP. The DOJ requested training and technical

assistance through OJJDP’s Center for Coordinated Assistance to States (CCAS) in October 2015. On June 17, 2016, DOJ compliance staff and its Wisconsin Department of Corrections (DOC) partners participated in a Webinar on Basic Compliance Monitoring. OJJDP assigned Wisconsin a Point of Contact for the Core Protections Division Team to work with Wisconsin moving forward on compliance. The DOJ will continue to work with CCAS and the Core Protections Division on compliance monitoring practices.

On August 8, 2016, the Office of Justice Programs (OJP) released Proposed Rules “to update the implementing regulation for the Formula Grant Program authorized by Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act of 1974 (“the Act” or JJDP). The purpose of the Formula Grant Program is to provide formula grant awards to states to support juvenile delinquency prevention programs and to improve their juvenile justice systems. The proposed rule would supersede the existing Formula Grant Program regulations to reflect changes in the 2002 JJDP reauthorization as well as policy changes to the Formula Grant Program.” The Proposed Rules provided a public comment period and the Commission, along with the DOJ (Wisconsin), submitted a formal response dated October 6, 2016, which the Wisconsin Department of Children and Families joined in support. The Proposed Rules would impose a new “substantial compliance” standard that would by OJP’s own admission result in 48 states being found out of compliance with one or more of the proposed regulations.

On September 30, 2016, OJJDP released a Draft *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act* (Draft Guidance Manual). OJJDP invited written feedback by October 13, 2016. The DOJ submitted written comments and participated in an OJJDP Compliance Listening Session concerning the Guidance Manual on October 13, 2016.

In the Guidance Manual and the Proposed Rules, OJJDP defines the term “detain or confine” to apply to non-secure detention. The current regulation and 2010 *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002*, OJJDP equated “being ‘detained’ or ‘confined’” with “being in ‘secure custody’”; i.e., that “detention” (or “confinement”) occurs whenever a juvenile is in “secure custody,” as that term is discussed in the current regulation at 28 CFR 31.3003(d)(1)(i)—and only when in such “secure custody.” However, the Proposed Rules would clarify that a juvenile is detained or confined when he is not free to leave, regardless of whether he is held securely or non-securely.

The Draft Guidance Manual states the “plain meaning of ‘detain,’ consistent with the Fourth Amendment of the U.S. Constitution, means that the person allegedly detained was not free to leave. Consistent with the Fourth Amendment, ‘detained’ means a person is not free to leave and/or that, under the circumstances, a reasonable person would believe that he or she is not free to leave the police station or any other holding facility. Conversely, if, in view of all the circumstances surrounding the incident, a reasonable person would

believe that he is free to leave, he has not been detained.” Therefore, “juveniles in non-secure custody in adult jails and lockups must be monitored for compliance with the jail removal and separation core requirements. States must monitor to ensure that adult jails and lockups document, at or near the time of detention, information on all juveniles held.”

OJJDP’s application of “detained or confined” is fraught with practical challenges for implementation. The Proposed Rules and Draft Guidance Manual impose a level of scrutiny that is out of proportion to the level of funding available for compliance monitoring through the Formula Grant Program. In the Proposed Rules, OJJDP commends states for the significant progress made in reducing instances of non-compliance with DSO (99.9%), non-compliance with separation (99.9%), and non-compliance with jail removal (99.8%). However, rather than reinforce that progress, OJJDP chooses to impose such a strict standard for compliance that 48 states would be out of compliance with one or more of the core requirements.

The JJCPA has not been reauthorized since 2007 and while there is tremendous bipartisan support for its reauthorization, it is unlikely to happen in 2016. The OJJDP has proposed significant changes; but their leadership may be in flux with the impending change in the White House. All of this uncertainty is difficult to incorporate into a solid compliance monitoring program. The DOJ has made significant improvements to its Juvenile Justice Program and will continue to move forward with support of the Commission.





# ACTIVE GRANTS - 2016

## DANE COUNTY

### *Dane County Office of Equal Opportunity*

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**\$20,000**

#### **DMC Reduction: Training, Education & Collaboration**

Dane County law enforcement will participate in training aimed at reducing disproportionate minority contact in juvenile justice. The training will focus on communities that are becoming increasingly diverse, and law enforcement departments that have not be well resourced in racial equity. Dane County law enforcement members, along with other juvenile justice stakeholders, will participate in a day long workshop held by The Perception Institute. The work will continue as "train the trainer" is included in this proposal aiding the long term efficacy of the training and dollars spent. A smaller cities consortium will receive department wide training. Ongoing system collaboration will be enhanced through information exchanges, written documentation, and relationship building.

### *Dane County Department of Human Services*

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**\$50,000**

#### **Restorative Justice Initiative**

The Dane County Restorative Justice Coalition (Coalition) is a partnership of the Dane County Department of Human Services, Briarpatch Youth Services, Centro Hispano, Dane County Time Bank, and YWCA of Madison, to interrupt the school to prison pipeline at the point of arrest contact with impressive results. The Coalition has partnered with the Madison Metropolitan School District as well as community centers, mentors, service providers, local law enforcement agencies and Madison's Municipal Court. The collaboration creates a restorative system that diverts juvenile offenders at the point of arrest contact when Madison police distributes information about the restorative justice alternative. Using Restorative Justice Circles, Youth Peer Courts, Community Services, Peer Groups, Mentoring and Case Management, youth participants take responsibility for their actions, restore the community that has been violated, and work to prevent future violations. 85% of all students referred to the program in the schools successfully completed their agreements and avoided further disciplinary action.

## LA CROSSE COUNTY

*La Crosse County Department of Human Services* **\$13,500**

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### **Cultural Competency to Advance DMC-Related System Improvement**

Under this project, the La Crosse County Arrest and DMC Stakeholder Group will identify and procure appropriate cultural competency training that would be delivered in common with partner agencies within the juvenile justice system. The training will lay the groundwork for and supplement the development of a system-wide memorandum of understanding (MOU) which is being developed as part of La Crosse County's overall DMC Reduction plan.

*La Crosse County Department of Human Services* **\$15,000**

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### **Justice Circles**

This grant funds the continued implementation of Justice Circles. This project is a community partnership of YWCA La Crosse with Lincoln and Logan Middle Schools. This project provides an alternative discipline strategy which allows students, specifically students of color, to take responsibility for their actions, while also working with them to keep them in school and engaged in their school community. Justice Circles are recognized as an early intervention effort by the La Crosse County Arrest and DMC Stakeholder Group, which compliments efforts to bring cultural competency training to the area.

## MILWAUKEE COUNTY

*Milwaukee County Human Services Department* **\$28,125**

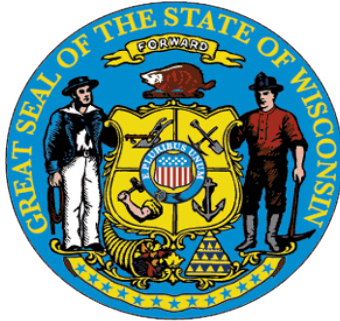
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### **Power of Harambee**

This grant supports juveniles' participation in the Power of Harambee Youth Employment Collaborative with the target population being youth in the Targeted Monitoring Program (TMP) and the Milwaukee County Accountability Program (MCAP). The Power of Harambee project is a collaborate effort aimed at providing high risk youth the training, guidance and mentoring to be successful in their lives and reduce recidivism. Further, this program supports youth of color in preventing further involvement with the juvenile and criminal justice systems. The goal of the Power of Harambee is to assist youth with making important life changes and improving the trajectories of their lives.

**TOTAL GRANTS AWARDED IN 2016**

**\$126,625**



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