

An Evaluation

Restorative Justice Programs

Milwaukee and Outagamie Counties

2003-2004 Joint Legislative Audit Committee Members

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June 29, 2004

Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Roessler and Representative Jeskewitz:

We have completed an evaluation of restorative justice programs in Milwaukee and Outagamie counties, as required by 2001 Wisconsin Act 16. Two assistant district attorney positions created by Act 16 serve as restorative justice coordinators in the two counties. In fiscal year (FY) 2002-03, \$100,600 in state and federal funding was spent on these programs.

The two counties' restorative justice programs achieved modest success through 2003. For example, the number of participating offenders increased from 461 in 2002 to 520 in 2003. In addition, encouraging results related to recidivism were reported for some of the programs. We independently calculated recidivism rates for one Milwaukee County program and found that 8.8 percent of participating offenders with no prior convictions committed another criminal offense within one year of participation, compared to 27.6 percent of nonparticipating offenders in a control group. We noted concerns with Outagamie County's calculations of recidivism rates, and we could not independently calculate the rates for its programs.

Act 16 stipulated that funding for the two restorative justice coordinator positions will end with FY 2004-05. We noted, however, that at least 11 other counties have restorative justice programs that are funded differently from those in Milwaukee and Outagamie counties. We provide funding alternatives for consideration, should the Legislature wish to consider the future of the positions in its 2005-07 biennial budget deliberations.

We appreciate the courtesy and cooperation extended to us by the Milwaukee and Outagamie County district attorneys' offices. Their responses follow the appendix.

Respectfully submitted,

Janice Mueller
State Auditor

JM/KW/ss

Restorative justice programs involve the victim, the offender, and the community in determining how to repair the harm caused by crime. 2001 Wisconsin Act 16, the 2001-03 Biennial Budget Act, created appropriations and authorized 2.0 full-time equivalent (FTE) assistant district attorney positions to serve as the coordinators of restorative justice programs in Milwaukee and another county to be selected by the Department of Corrections, which chose Outagamie County. The two coordinators are supported by federal and state funds, which are provided through the Office of Justice Assistance (OJA) and the State Prosecutors Office and are scheduled to end with fiscal year (FY) 2004-05. In FY 2002-03, \$100,600 was spent on salaries and fringe benefits through the appropriations.

Restorative Justice Programs

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Restorative Justice Programs

Report Highlights ■

Participation in restorative justice programs increased from 2002 to 2003.

Milwaukee County participants have a lower recidivism rate than nonparticipants.

At least 11 additional Wisconsin counties have restorative justice programs.

Restorative justice programs involve the victim, the offender, and the community in determining how to repair the harm caused by crime. 2001 Wisconsin Act 16, the 2001-03 Biennial Budget Act, created appropriations and authorized 2.0 full-time equivalent (FTE) assistant district attorney positions to serve as the coordinators of restorative justice programs in Milwaukee and another county to be selected by the Department of Corrections, which chose Outagamie County. The two coordinators are supported by federal and state funds, which are provided through the Office of Justice Assistance (OJA) and the State Prosecutors Office and are scheduled to end with fiscal year (FY) 2004-05. In FY 2002-03, \$100,600 was spent on salaries and fringe benefits through the appropriations.

Act 16 requires us to evaluate the success of these restorative justice programs in serving victims, offenders, and the community.

Therefore, we analyzed:

- program expenditures through April 2004;
- each county's compliance with statutory reporting requirements;
- oversight by OJA and the State Prosecutors Office, which administer the programs' state and federal funding; and

- 11 restorative justice programs in other Wisconsin counties, which are similar to the Milwaukee and Outagamie County programs but are operated by nonprofit organizations or county agencies.

Program Participants

Restorative justice programs typically deal with nonviolent crimes and involve diverse approaches, such as:

- victim-offender conferences, which are led by trained facilitators and allow an individual victim to meet the offender and discuss both the crime and how the offender will make amends; and
- victim impact panels, which allow victims and perpetrators of certain similar offenses to meet in groups and understand the effects of the crimes.

Participation by offenders may be voluntary or mandatory and may occur before or after formal sentencing. If offenders comply with a program's provisions, the charges against them may be reduced or dismissed.

The seven programs included in our review are summarized in Table 1.

Table 1

Restorative Justice Programs

Milwaukee County

- Community Conferencing: Victims, offenders, and community members discuss crimes and decide how offenders will make amends
- Neighborhood Initiative: Community members discuss public safety issues

Outagamie County

- Drunk Driving Impact Panel: Second-time offenders learn from victims the effects of their crimes
- Domestic Violence Fast Track: Expedited court process allows first-time offenders to enter treatment
- Drug Fast Track: Expedited court process allows first-time offenders to enter treatment
- Community Court: Offenders and community members discuss crimes and decide how offenders will make amends
- Victim-Offender Conferencing: Victims and offenders discuss crimes and decide how offenders will make amends

From 2002 to 2003, the number of offenders in Milwaukee County's Community Conferencing program increased modestly, from 46 to 49. The number of victims served by that program increased from 51 to 55. Milwaukee County does not track the number of participants in its Neighborhood Initiative program, which does not focus on specific offenses.

The number of offenders in Outagamie County's five programs increased from 415 in 2002 to 471 in 2003. Outagamie County reported that its Community Court and Victim-Offender Conferencing programs each served four victims in 2003, and its Domestic Violence Fast Track program served approximately 168. Its other two programs do not typically involve victims of the participants.

Recidivism Rates

Early results for some of the programs are encouraging. For example, by early-February 2004, 4.3 percent of 47 offenders who participated in Milwaukee County's Community Conferencing program from August 2002 through July 2003 were charged with another crime, compared to 13.5 percent of 52 nonparticipating offenders.

We independently calculated recidivism rates for offenders who participated in the Community Conferencing program in 2002. We found that 8.8 percent of participating offenders with no prior convictions were rearrested for or charged with another criminal offense within one year of participation, compared to 27.6 percent of nonparticipating offenders in our control group.

Outagamie County calculated recidivism rates for two of its restorative justice programs. It reported that 8.5 percent of offenders who had participated in its Domestic Violence Fast Track program in 2002, and 24.1 percent of its 2002 Drug Fast Track program participants, were charged with another offense by mid-January 2004. In comparison, 32.8 percent of nonparticipating offenders were charged with another offense.

While Outagamie County's results are positive, we identified problems with the control group used for comparison purposes. First, the county did not identify a separate control group for each program. Second, the combined control group included offenders from both 2002 and 2003. In contrast, the program participant group consisted of 2002 offenders only. Because of these problems, it is likely that Outagamie County's recidivism rates do not accurately reflect program results. We did not independently calculate

recidivism rates for the two fast track programs because Outagamie County did not provide a comprehensive list of participants until late in the audit process, and it did not identify an appropriate control group.

Outagamie County has not reported recidivism rates for its Drunk Driving Impact Panel program, which served 250 offenders in 2002 and 242 offenders in 2003. We include a recommendation that this be done. Outagamie County's Community Court and Victim-Offender Conferencing programs served too few offenders for statistically meaningful rates to be calculated.

Offenders' compliance with the agreements they sign as a condition of program participation is another indicator of program success. Milwaukee County data indicate that 62.2 percent of offenders who participated in its Community Conferencing program in 2002 complied with their agreements. Offenders who comply can receive reduced charges or sentences, or the charges against them can be dismissed. We did not conduct a similar analysis for Outagamie County's two fast track programs.

Other Counties' Programs

We contacted 11 other Wisconsin counties that have their own restorative justice programs. Many of these counties' programs are similar to the Milwaukee and Outagamie County programs.

Nonprofit organizations operate restorative justice programs in eight counties, while county agencies operate them in the remaining three. None of the other counties' program involve oversight by the district attorney's office. The other counties' programs are funded primarily with county funds that may be supplemented by private grants, participant fees, and state funds. Most program budgets are small. The counties also reported that most of their programs have been successful.

Future Considerations

Statutes require the Milwaukee and Outagamie County restorative justice coordinators to report annually on the number of victims and offenders served, the types of offenses addressed, recidivism rates for program participants and nonparticipants, and the amount of time spent operating their programs. Reports are submitted to the State Prosecutors Office, which forwards them to OJA.

2001 Wisconsin Act 16, which created the four-year pilot program, stipulated that funding for the two restorative justice coordinator positions will end with FY 2004-05. Our report includes options related to future program funding that the Legislature may wish to consider as part of its 2005-07 biennial budget deliberations.

Recommendations

Our recommendations address the need for:

- ☑ Outagamie County to calculate and compare recidivism rates for participants in its Drunk Driving Impact Panel program and a valid control group (*p. 23*); and
- ☑ Milwaukee and Outagamie counties to use a consistent methodology to calculate recidivism rates, comply with statutory reporting requirements, and submit copies of their 2004 annual reports to the Joint Legislative Audit Committee (*pp. 30-31*).

■ ■ ■ ■

Introduction ■

Two restorative justice coordinators oversee programs in Milwaukee and Outagamie counties.

2001 Wisconsin Act 16 created s. 978.044, Wis. Stats., which requires the two restorative justice coordinators to:

- establish restorative justice programs that provide support to victims;
- help reintegrate victims into community life; and
- provide forums where offenders may meet with victims to discuss the impact of their crimes, explore potential restorative responses by offenders, and provide methods for reintegrating offenders into community life.

Funding for the two restorative justice coordinators is provided, in part, by the federal Edward Byrne Memorial State and Local Law Enforcement Assistance program, which was created by the Anti-Drug Abuse Act of 1988 and is administered by the U.S. Department of Justice. The Byrne program provides funds to states for a variety of state and local government projects, including those that provide alternatives to incarceration. Under federal program rules, projects must be targeted to individuals who pose no danger to the community and must be supported with a 25 percent match of state or local funds. Federal funding for a given project can last no longer than four years. In federal fiscal year 2002-03, Wisconsin received \$9.0 million in Byrne program funds.

The state matching funds for the restorative justice coordinators are provided through penalty assessments, which are surcharges on fines paid by individuals and organizations for certain violations. No local funds are required because the two coordinators are located in district attorneys' offices, which are state-funded.

Funds for the coordinators are provided through OJA and the State Prosecutors Office.

The federal and state restorative justice funds are provided through OJA appropriations. OJA is attached to the Department of Administration (DOA) for administrative purposes and administers federally funded justice programs for juvenile and adult offenders and develops statistical crime data for the State. OJA provides the restorative justice funds to the State Prosecutors Office, which is located in DOA and funds county district attorneys' offices.

To comply with the evaluation requirement in Act 16, we evaluated the coordinators' expenditures, the restorative justice programs operated by Milwaukee and Outagamie counties, and the oversight provided by OJA and the State Prosecutors Office. In addition, we researched restorative justice programs operated by other Wisconsin counties. In conducting this evaluation, we:

- reviewed literature about the principles of restorative justice;
- spoke with the Milwaukee and Outagamie County restorative justice coordinators and reviewed the reports they are required to submit to OJA and DOA;
- analyzed expenditure data in the State's accounting system;
- analyzed the arrest records of 92 participants and individuals in a control group in order to calculate and compare recidivism rates;
- calculated the rates at which participants complied with the agreements they signed as a condition of their participation; and
- contacted restorative justice programs in 11 other counties.

Principles of Restorative Justice

Restorative justice views crime as an offense that needs to be redressed by offenders. Crime is traditionally considered to be an act against the state and deserving of a punitive response that often involves little input from the victim. In contrast, restorative justice is based on a set of principles including that:

- crime is an offense against people, and it creates an obligation to make things right;
- victims and communities should help decide how to repair the harm caused by crime;
- offenders have a personal responsibility to victims and communities for their crimes;
- communities are responsible for the well-being of victims and offenders; and
- results are best measured by the extent to which harm was repaired, not by the severity of the punishment that was imposed.

Restorative justice programs can take many forms. One common type is a victim-offender conference, led by a trained facilitator, at which an offender and victim meet to discuss the harm the crime caused. Community representatives may also be present. Together, the conferees determine how an offender will make amends, which may include monetary restitution, community service, or other actions. Another type of program, called a "circle," brings people together from varied backgrounds to discuss public safety issues or specific crimes in a neutral, nonthreatening setting.

Victim impact panels are another form of restorative justice in which groups of offenders hear a panel presentation by victims and perpetrators of similar crimes. These programs are intended to increase offenders' awareness and understanding of the effects of their crimes. Restorative justice can also take the form of teen courts, in which teenagers serving as mock attorneys and members of a jury help an adult serving as a mock judge to determine the appropriate community response to crimes committed by other teenagers.

Victim participation in restorative justice programs is voluntary.

Participation in restorative justice programs by victims is voluntary. If a victim does not want to meet an offender and participate in the process, most programs will not address the case. However, some programs rely on police statements and other information as substitutes for a victim's direct input, in order to work with offenders who are willing to participate.

Typically, only offenders who have committed nonviolent offenses and have acknowledged their guilt are allowed to participate.

Participation may be voluntary or mandatory and may occur before or after a formal sentence has been imposed. Restorative justice

programs are available for both adult and juvenile offenders.

Juvenile programs can divert offenders from the traditional justice process in order to give them a second chance, instead of being

convicted of a crime. If an offender complies with the restorative justice agreement, which may stipulate the form of restitution that

must be made, an offender may receive a reduced charge or sentence.

The success of restorative justice programs may be measured in various ways, including the extent to which participants commit

future crimes; the number of individuals served; the level of satisfaction among victims and offenders; and the amount of public

funds saved, compared to handling the cases through the traditional justice process. It should be noted that some proponents of

restorative justice dispute that these are relevant measures of success. Instead, they maintain that programs should be judged by

the extent to which the programs address the harm caused by crime, increase a community's well-being, and change how people think

about the justice system. However, assessing programs by these measures is difficult because the necessary data are typically not

available.

We did not examine the Department of Corrections' restorative justice programs, which serve incarcerated individuals and typically

deal with violent crimes. However, as noted, we did survey programs in 11 additional Wisconsin counties, 6 of which had

unsuccessfully applied in 2001 to receive these Byrne grant funds.



Program Results ■

The two counties' restorative justice programs achieved modest success through 2003.

The success of the restorative justice programs in Milwaukee and Outagamie counties can be measured, in part, by how well the programs serve victims, offenders, and the community. Statutes require the counties to prepare annual reports on the number of offenders and victims served, recidivism rates, and other information. The reports, which are submitted to the State Prosecutors Office and forwarded to OJA, indicate the programs achieved modest success through 2003. However, we noted concerns with the manner in which Outagamie County calculated its recidivism rates.

Expenditures

Expenditures charged to the restorative justice appropriations that were created by 2001 Wisconsin Act 16 have been exclusively for salaries and fringe benefits. This includes those of the assistant district attorney who serves as Outagamie County's restorative justice coordinator. With the approval of the U.S. Department of Justice and OJA, Milwaukee County uses its funds to support an assistant district attorney not associated with the county's restorative justice programs. The individual who has overseen the county's programs since before the legislation was enacted is a senior staff member whose salary exceeds the funding provided by Act 16.

In FY 2002-03, restorative justice expenditures associated with 2001 Wisconsin Act 16 totaled \$100,600.

Table 2 shows the expenditures under the restorative justice appropriations established by Act 16. Expenditures were only \$45,200 in FY 2001-02 because the two counties did not begin to claim reimbursement against the appropriations until January 2002. In FY 2002-03, the last complete fiscal year at the time of our report, expenditures totaled \$100,600.

Table 2
Restorative Justice Expenditures, by County

| | FY 2001-02 | FY 2002-03 | FY 2003-04 ¹ |
|-------------------------|-----------------|------------------|-------------------------|
| Milwaukee County | | | |
| Salaries | \$19,400 | \$ 39,300 | \$30,000 |
| Fringe Benefits | 4,100 | 11,500 | 10,900 |
| Subtotal | 23,500 | 50,800 | 40,900 |
| Outagamie County | | | |
| Salaries | 17,900 | 35,700 | 33,500 |
| Fringe Benefits | 3,800 | 14,100 | 11,000 |
| Subtotal | 21,700 | 49,800 | 44,500 |
| Total | \$45,200 | \$100,600 | \$85,400 |

¹ Through April 2004.

In addition to Milwaukee County's restorative justice coordinator, another staff member in the district attorney's office serves as a program manager. This individual is supported by county funds and a grant from a private foundation.

Statutory Reporting Requirements

Statutes require the restorative justice coordinators funded by Act 16 to report annually on their programs.

State statutes require the two restorative justice coordinators to maintain records and report annually on the:

- number of victims and offenders served by the programs;
- types of offenses addressed by the programs;

- rate of recidivism among offenders who participate in the programs, compared to the rate among offenders who did not participate; and
- amount of time spent implementing the programs.

Through 2003, Milwaukee County operated two restorative justice programs. Through 2003, the two counties operated a number of programs, many of which were in place before Act 16 authorized funding of the two coordinator positions. Milwaukee County operated the:

- Community Conferencing program, which brings together a victim, an adult nonviolent offender, community representatives, and a trained facilitator to discuss an offense, including its effects on the victim and community and the actions that need to be taken to repair the harm it caused. Victim and offender participation is voluntary, and an offender must admit to the offense in order to participate.
- Neighborhood Initiative program, which brings together members of specific Milwaukee communities to discuss public safety issues and criminal activity. The program uses the "circle" process to bring together people from different ages and ethnic backgrounds to help them recognize their mutual interdependence and address the problems of crime. The program is involved with local organizations such as the Midtown Neighborhood Association, Interfaith Conference, Third District Community Justice Center, the Archdiocese of Milwaukee, Marquette University, and Milwaukee Public Schools.

The Milwaukee County Task Force on Restorative Justice, which the Milwaukee County Board established in 1998, serves as an advisory panel for the county's programs. Its membership includes the restorative justice coordinator and program manager, community members, law enforcement officials, county agency staff, and representatives of organizations involved with the programs.

Through 2003, Outagamie County operated five restorative justice programs.

Through 2003, Outagamie County operated the:

- Domestic Violence Fast Track program, which seeks to expedite the court process in order to enroll first-time offenders in treatment programs and reduce recidivism. The program collaborates

with a local shelter that provides victims of domestic violence with advocacy services, and it works to ensure offenders are assessed for counseling needs and enter treatment soon after their court appearances.

- Drug Fast Track program, which seeks to expedite the court process in order to enroll first-time drug offenders in treatment programs and reduce recidivism. Participants are typically 17 to 25 years old and have been charged with misdemeanor drug possession or possession of drug paraphernalia.

- Victim-Offender Conferencing program, which brings together a victim, offender, and trained mediator to discuss a crime's effects and the actions that are needed to repair the harm that was caused. Victim and offender participation is voluntary.

- Community Court program, which allows community members to form a panel of "judges" for cases involving nonviolent, first-time offenders who are 17 to 24 years old. An offender must admit to the crime and submit to the conditions imposed by the community member judges.

- Drunk Driving Impact Panel program, which convenes five times per year and seeks to deter drunk drivers from committing future offenses by hearing the experiences of a drunk driver who has killed someone and either a drunk driving victim or a member of a victim's family. All individuals who are convicted of a second drunk driving offense are court-ordered to attend the program, which is facilitated by a board that, according to the restorative justice coordinator, includes staff of the sheriff's department, Mothers Against Drunk Driving, and other interested community groups.

The Community Restorative Justice Project, established in 2000, collaborates with the district attorney's office to promote restorative justice practices in Outagamie County and implement programs based on restorative justice principles. It also screens victims and offenders to determine whether they are appropriate for the Victim-

Offender Conferencing program and provides trained facilitators to conduct the conferences. The project includes representatives of the criminal justice system, businesses, schools, churches, social services agencies, and nonprofit organizations.

Outagamie County's Domestic Violence and Drug Fast Track programs both use deferred prosecution agreements, under which an offender pleads guilty or no contest to the charges that were filed, but is not sentenced. If an offender complies with the terms of the agreement, the charges are typically dismissed. However, noncompliance may result in an offender being sentenced for the original charges. Most participants in Milwaukee County's Community Conferencing program have been charged and found guilty before entering the program. They can receive reduced charges or sentences, or the charges can be dismissed, if they comply with the terms of the agreements they signed as a condition of participation.

Program Participant Information

Participation in Milwaukee County's Community Conferencing program increased modestly in 2003.

As required by statutes, Milwaukee County has reported information to the State about the number of victims, offenders, and community members participating in its Community Conferencing program. As shown in Table 3, the number of participants increased modestly from 2002 to 2003. The district attorney's office was not involved in any specific criminal cases involving the Neighborhood Initiative program and, as a result, did not report the number of participants.

Table 3
Number of Participants in Milwaukee County's Community Conferencing Program

| Participants | 2002 | 2003 |
|-------------------|------|------|
| Victims | 51 | 55 |
| Offenders | 46 | 49 |
| Community Members | 127 | 138 |

The most common types of offenses committed by participants in Milwaukee County's Community Conferencing program have been theft, fraud, entry into a locked building, and burglary.

As shown in Table 4, Outagamie County reported that the number of offenders who participated in its five programs increased from 415 in 2002 to 471 in 2003. Participation in the two fast track programs increased, while it decreased in the other three programs.

Table 4

Number of Offenders in Outagamie County's Restorative Justice Programs

| Program | 2002 | 2003 |
|------------------------------|------------|------------|
| Drunk Driving Impact Panel | 250 | 242 |
| Domestic Violence Fast Track | 95 | 168 |
| Drug Fast Track | 43 | 51 |
| Community Court | 21 | 6 |
| Victim-Offender Conferencing | 6 | 4 |
| Total | 415 | 471 |

In 2003, three of Outagamie County's programs served more than 176 victims.

In 2003, Outagamie County reported that the Community Court and Victim-Offender Conferencing programs each served four victims, and the Domestic Violence Fast Track program served approximately 168 adult victims, not including children who may also have been victims of the domestic violence. The county did not report the number of victims served by its other two programs, the Drug Fast Track program and Drunk Driving Impact Panel program.

Outagamie County reported the types of offenses committed by participants in each of its programs:

- the Domestic Violence Fast Track program addressed disorderly conduct, misdemeanor battery, and criminal damage to property offenses;
- the Drug Fast Track program addressed misdemeanor possession of marijuana and drug paraphernalia offenses;
- the Community Court program addressed misdemeanor possession of marijuana, disorderly conduct, and theft offenses; and

- the Victim-Offender Conferencing program addressed graffiti, criminal damage to property, theft, and hit-and-run offenses.

Recidivism Rates in Milwaukee County

One way to measure the effectiveness of programs is the extent to which participating offenders subsequently commit additional crimes. There is no standard method of calculating recidivism rates. However, many researchers believe that offenders should be considered recidivists if they are arrested for any additional criminal offense. In order to calculate meaningful rates, at least 6 to 12 months must pass after an offender participates in a program. For comparative purposes, recidivism rates should be calculated for a control group made up of nonparticipating offenders who have committed crimes similar to those committed by participants.

Milwaukee County identified a comparison group for its recidivism analyses.

Milwaukee County has regularly reported recidivism rates for offenders who participated in its Community Conferencing program and for offenders whose cases were accepted into the program but who did not participate because their victims declined to participate. Offenders in the program from August 2002 through July 2003 had a 4.3 percent recidivism rate through early-February 2004, compared to 13.5 percent for offenders in the control group, as shown in Table 5. Similarly, offenders who participated from May 2000, when the county began monitoring program results, through July 2002 also had a lower recidivism rate than control group offenders.

Table 5

**Recidivism Rates in Milwaukee County
Cases from August 2002 through July 2003**

| | Recidivism Rate ¹ |
|--------------------------------|------------------------------|
| Community Conferencing Program | 4.3% |
| Control Group | 13.5 |

¹ Through February 9, 2004; includes 47 offenders who participated in the program and 52 in the control group.

We noted one minor limitation with Milwaukee County's methodology. To determine whether individuals had committed a subsequent offense, the county searched circuit court records as of early-February 2004. As a result, the period in which individuals could re-offend ranged from 18 months, for individuals who had committed their first offense in August 2002, to only six months, for individuals who had committed their first offense in July 2003. A better method would have been to calculate recidivism rates for a standard time period, such as one year from the date of participation.

We independently calculated recidivism rates for one Milwaukee County program.

Independent Calculation of Recidivism Rates

We independently calculated recidivism rates for 92 offenders, including 45 participants in Milwaukee County's Community Conferencing program in 2002 and 47 offenders in a control group. In doing so, we analyzed the state Department of Justice's electronic arrest records and the circuit court system's electronic records of charges filed against individuals. This information is the best available, but its accuracy depends on the individual local governments that submitted it.

We calculated the percentage of offenders who were rearrested for or charged with another criminal offense within one year of their participation in the Community Conferencing program, and the percentage rearrested or charged through December 2003. In addition, we calculated separate rates for offenders with no prior criminal convictions and for those with at least one prior conviction, in order to determine whether individuals with a criminal history were more likely to re-offend. We did not include traffic violations, trespassing, underage drinking, and other non-criminal citations in our analyses.

As shown in Table 6, participants in the Community Conferencing program had lower recidivism rates than offenders in the control group. Offenders with no prior convictions had lower rates than those with a prior conviction.

Table 6
Recidivism Rates in Milwaukee County
 2002 Cases

| | Community Conferencing Program ¹ | Control Group ² |
|--|---|----------------------------|
| Percentage of Offenders with No Prior Convictions Who Were: | | |
| Rearrested or Charged within One Year | 8.8% | 27.6% |
| Rearrested or Charged through 2003 | 8.8 | 37.9 |
| Percentage of Offenders with a Prior Conviction Who Were: | | |
| Rearrested or Charged within One Year | 27.3 | 50.0 |
| Rearrested or Charged through 2003 | 45.5 | 66.7 |

¹ Includes 34 offenders with no prior convictions and 11 offenders with a prior conviction.

² Includes 29 offenders with no prior convictions and 18 offenders with a prior conviction.

Recidivism Rates in Outagamie County

Before publication of its 2003 annual report, Outagamie County did not report any recidivism rates or identify a control group because it believed its programs had not been in operation long enough to calculate meaningful rates. However, the 2003 report included recidivism rates for the county's two fast track programs and a control group, as shown in Table 7.

Table 7

**Recidivism Rates in Outagamie County
2002 Cases**

| | Recidivism Rate ¹ |
|--------------------------------------|------------------------------|
| Domestic Violence Fast Track Program | 8.5% |
| Drug Fast Track Program | 24.1 |
| Control Group | 32.8 |

¹ Through mid-January 2004; includes 142 offenders who participated in the Domestic Violence Fast Track program, 54 who participated in the Drug Fast Track program, and 64 in the control group.

Outagamie County did not accurately calculate the recidivism rate for its control group.

We identified several problems with the county's control group:

- The offenders in the control group committed not only domestic violence and drug offenses, but also other misdemeanors that the two programs do not address. A better approach would have been to create separate control groups for the two programs, which address different types of offenses and have considerably different recidivism rates, as shown in Table 7.
- Approximately half the control group had an initial court appearance in February 2002, while the other half's initial appearance was in February 2003. A better approach would have been to calculate a control group recidivism rate for only 2002 cases, which would allow for direct comparisons with 2002 fast track program cases.
- The county analyzed circuit court records for the control group in January 2004. As a result, some 2002 offenders had almost two years in which to re-offend, while the 2003 offenders had less than one year. In comparison, the recidivism rates for participants are based on a 12-month period. A better approach would have been to use a standard rearrest period.

Because of these problems, it is likely that the recidivism rates Outagamie County reported for its two fast track programs do not accurately reflect program results.

Outagamie County has not reported recidivism rates for its Community Court and Victim-Offender Conferencing programs because there have been too few participants to produce statistically meaningful rates. However, it has also not reported rates for its Drunk Driving Impact Panel program, even though 250 individuals participated in 2002 and 242 participated in 2003. For comparative purposes, Outagamie County could also identify a control group made up of, for example, individuals in surrounding counties who have second-time convictions of drunk driving offenses in a given year. This methodology has previously been used in the county. In 2000, before the county received Byrne program funds, an outside researcher studied recidivism rates for participants in the Drunk Driving Impact Panel program. The study's control group included individuals in Winnebago County, which did not have a similar program during the study period, who had second-time convictions for drunk driving offenses. The study indicated that participants had a lower recidivism rate than the control group.

Recommendation

We recommend Outagamie County's restorative justice coordinator calculate and compare recidivism rates for participants in its Drunk Driving Impact Panel program and for a control group of individuals who do not participate, as required by s. 978.044(2)(c)4, Wis. Stats.

We attempted to independently calculate recidivism rates for Outagamie County's Domestic Violence and Drug Fast Track programs. However, the restorative justice coordinator did not provide us with a comprehensive list of individuals who had participated in 2002 until late in the audit process and did not identify an appropriate control group, which prevented us from calculating the rates.

Compliance with Program Agreements

Another indicator of program success is the extent to which offenders comply with the agreements they sign as a condition of participating in a restorative justice program. Such agreements stipulate the actions offenders are required to take, such as making monetary restitution or performing community service. If an offender complies, the restorative justice coordinator in Milwaukee County can recommend to the judge at the time of sentencing that the offender receive a reduced charge or sentence, or that the charge be dismissed.

Most Milwaukee County participants complied with the terms of their restorative justice agreements.

Based on information provided by Milwaukee County, 62.2 percent of Community Conferencing program participants in 2002 complied with the terms of their agreements, while 35.1 percent did not, as shown in Table 8. Compliance information for nine offenders was unavailable. Charges against one offender were subsequently dismissed, and the agreement was ended.

Table 8

**Offender Compliance with Restorative Justice Agreements
Milwaukee County's Community Conferencing Program
2002 Cases**

| | Number | Percentage |
|-------------------|-----------|---------------|
| Complied | 23 | 62.2% |
| Did Not Comply | 13 | 35.1 |
| Charges Dismissed | 1 | 2.7 |
| Total | 37 | 100.0% |

We attempted to conduct a similar analysis for Outagamie County's Domestic Violence and Drug Fast Track programs. However, as noted, the restorative justice coordinator did not provide us with a comprehensive list of participants in 2002 until late in the audit process. Nevertheless, the available information suggests that most individuals who were eligible to participate in 2002, and who entered into deferred prosecution agreements, complied with those agreements.

Staffing Information

Milwaukee County's annual reports for 2002 and 2003 indicated how its restorative justice coordinator spent his time implementing the programs, as required by statutes. In 2003, for example, the coordinator spent 45 percent of his time administering the Community Conferencing program, 40 percent developing the Neighborhood Conferencing program, and 15 percent working on outreach and education issues.

Outagamie County included similar information in its 2003 annual report. Its coordinator spent 50 percent of her time on the two fast track programs, 45 percent on the county's other programs, and 5 percent attending meetings and conferences. However, in prior reports, the county only listed the tasks that had been performed, without indicating the amount of time spent on each.

Additional Reporting Requirements

The two counties submit semiannual reports on progress made toward self-identified goals.

The federal Byrne program requires OJA to submit annual reports that describe how program funds were spent. To help complete these reports, OJA requires semiannual reports from the two counties on the progress made toward achieving the program goals and objectives identified in the counties' annual applications for program funding. These goals and objectives include: measuring the satisfaction of program participants; increasing the number of program participants; and increasing awareness of restorative justice principles among law enforcement officials, school officials, and others. The counties submit their semiannual reports to the State Prosecutors Office, which forwards them to OJA.

Both counties reported that they have achieved some of their goals.

Both counties have complied with these reporting requirements and reported that they achieved some of their goals and objectives. For example, Outagamie County created a Domestic Violence Impact Panel for men convicted of domestic violence offenses. The panel, which met for the first time in February 2004, includes two women who share their experiences in living in abusive relationships and it emphasizes the effects of domestic violence on children. Milwaukee County has increased the number of conferences held by its Community Conferencing program.

Milwaukee County reported it achieved results that it had not originally anticipated. It had proposed using the "circle" process as part of its Neighborhood Initiative program in order to address specific crimes in two inner-city neighborhoods. However, the circles did not address specific crimes but instead discussed public safety issues. Nevertheless, additional circles were established, including one at the Mayfair Shopping Mall in Wauwatosa.

Other goals and objectives were not achieved. For example, in both FY 2001-02 and FY 2002-03, Outagamie County sought to establish a teen court to address juvenile offenses. Although it completed background work and held meetings to determine the level of county interest, it did not establish a teen court. However, the county may implement this program in the future if it is able to identify the necessary ongoing funding.

Both counties indicated that they would survey victims and offenders to measure program satisfaction. Both reported that they have done so, but that the limited number of surveys returned to date prevents definitive conclusions from being made. Nevertheless, we reviewed surveys completed by 36 victims and 18 offenders who participated in Milwaukee County's Community Conferencing program and found that almost all indicated they were satisfied with the program. A number of victims stated it was beneficial to discuss the crimes, gain an understanding of why the offenders committed the crimes, and hold the offenders accountable.

Offenders noted it was beneficial to meet their victims, explain their actions, and understand the effects of their crimes.



Future Considerations ■

Funding for the two restorative justice coordinator positions ends with FY 2004-05.

2001 Wisconsin Act 16 created the restorative justice program as a four-year pilot program and stipulated that funding for the coordinator positions in Milwaukee and Outagamie counties will end with FY 2004-05. Therefore, as part of its 2005-07 biennial budget deliberations, the Legislature may wish to consider whether to continue funding these positions. The experiences of 11 other counties with restorative justice programs may be of interest. We also provide alternatives for legislative consideration.

Programs in Other Wisconsin Counties

We contacted 11 additional Wisconsin counties with restorative justice programs.

Restorative justice programs operate in many additional Wisconsin counties. We contacted 11 counties to determine how their programs are operated and funded, the types of offenders served, and other programmatic information. We selected counties that are located throughout the state and have different population sizes. Six of the 11 counties had unsuccessfully applied to the Department of Corrections in 2001 to receive Byrne program funding. The programs vary among the counties. For example:

- Victim-offender conferencing or mediation programs are operated by Barron, Crawford, Dane, Douglas, Jefferson, La Crosse, Marathon, Marinette, and Monroe counties. These programs are similar to Milwaukee County's Community Conferencing program and Outagamie County's Victim-Offender Conferencing program.

- Teen court programs are operated by Barron, Brown, Jefferson, and Winnebago counties.
- Victim impact panels are operated by Barron, Dane, and Monroe counties.

While many of the programs offered by the 11 counties are similar to those in Milwaukee and Outagamie counties, they are administered and funded differently. As shown in Table 9, nonprofit organizations operate the programs in 8 of the 11 counties, typically under contract. County agencies directly operate the programs in three counties. In contrast to Milwaukee and Outagamie counties, district attorneys' offices do not oversee any of the programs in the 11 counties.

Table 9
Characteristics of Restorative Justice Programs in 11 Wisconsin Counties
 January 2004

| County | Program Operation | | Funding Sources | | | |
|-----------|-------------------|--------|-----------------|----------------|------------------|-------------|
| | Nonprofit | County | County Funds | Private Grants | Participant Fees | State Funds |
| Barron | ■ | | ■ | ■ | ■ | |
| Brown | ■ | | ■ | | ■ | |
| Crawford | ■ | | ■ | ■ | | |
| Dane | ■ | | ■ | | | |
| Douglas | ■ | | | ■ | | |
| Jefferson | ■ | | ■ | | | |
| La Crosse | ■ | | ■ | ■ | ■ | |
| Marathon | ■ | | ■ | | | |
| Marinette | | ■ | | | | ■ |
| Monroe | | ■ | ■ | | | |
| Winnebago | | ■ | ■ | | ■ | |

The programs reported that they are supported primarily by county funds. However, grants from private organizations, such as the United Way, support four counties' programs. Fees assessed on participants partially fund four counties' programs. For example, Barron County charges participants in its Teen Court program \$65;

La Crosse County charges offenders in its Victim-Offender Mediation program \$50 if public defenders represented them in court, or \$100 if they had private attorneys; and Winnebago County charges participants in its Teen Court program \$10. Marinette County receives state funds from the Department of Corrections' Community Intervention program, which supports juvenile delinquency prevention activities.

Most of the 11 counties' restorative justice programs have small budgets.

Most of the programs have small budgets. For example, Marathon County's program has an annual budget of approximately \$20,000, which funds one part-time position, and Crawford County's program has an annual budget of approximately \$30,000, which funds one part-time position. In contrast, Brown County's programs have an annual budget of approximately \$140,000, which supports 3.0 FTE staff positions.

All 11 counties operate programs for juveniles, which may be expected, given that restorative justice programs often target young offenders who do not have extensive criminal records. Six counties also operate programs for adults.

Seven counties collect recidivism data, typically on an annual basis, although they use various methods to measure recidivism. For example, Marinette and Monroe counties measure recidivism based on participants who have been rearrested. In contrast, Jefferson County, which reported a 12 percent recidivism rate among offenders in its juvenile Victim-Offender Conferencing program, measures recidivism based on convictions. La Crosse County reported a 20 percent recidivism rate for participants in its Victim-Offender Mediation program, compared to an 80 percent rate for offenders in a control group. Several counties told us that resource constraints prevent them from calculating recidivism rates for control groups.

The counties reported that most of their programs have been successful. They generally define success as restoring a sense of safety to the victim, reducing recidivism, achieving cost savings by avoiding incarceration, or increasing the number of victims and offenders served. The nine counties that use satisfaction surveys to help evaluate their programs found that victims and offenders were generally satisfied with the programs.

Some counties have calculated the savings of their restorative justice programs.

Some counties have attempted to determine whether restorative justice programs cost less than traditional judicial processes. For example, Monroe County estimated that its programs save the county an estimated \$600,000 to \$1.0 million annually as a result of offenders not being incarcerated. Similarly, Outagamie County provided information that suggested two of its programs have

saved the county approximately \$24,000 annually since 1998. The county indicated these savings occurred because cases addressed by the programs required fewer court hours than would have been required in the traditional judicial process.

The appendix contains additional information about the restorative justice programs in each of the 11 counties.

Future Funding of Coordinator Positions

The Legislature may wish to consider whether to continue funding the two coordinator positions after FY 2004-05.

The Legislature may wish to consider whether to continue funding the two restorative justice coordinator positions in Milwaukee and Outagamie counties after FY 2004-05. Federal Byrne program funds, which currently provide 75 percent of the funding, cannot support the two positions after FY 2004-05 because of the federal four-year limitation on funding. The available information indicates that the two counties' programs have achieved modest success in terms of increasing the number of participants and reducing recidivism rates. However, the information provided by Outagamie County through 2003 was incomplete. Without reliable and relevant information about program results, it is difficult to definitively determine the success of the programs. It will be important that the counties' annual reports for 2004 contain all of the statutorily required information, which the Legislature can use to decide whether to continue supporting the two positions.

We noted several concerns with the methodologies that the two counties used to calculate recidivism rates. Furthermore, because the counties used different methodologies and operate different programs, it is difficult to compare them. In addition, Outagamie County did not report on recidivism rates for its Drunk Driving Impact Panel program.

Recommendation

We recommend the restorative justice coordinators in Milwaukee and Outagamie counties:

- *use a consistent methodology for calculating recidivism rates for program participants and a comparable group of nonparticipating individuals;*
- *ensure the 2004 annual reports they submit to the State Prosecutors Office and the Office of Justice Assistance in early 2005 comply with all statutory reporting requirements in s. 978.044(3), Wis. Stats.; and*

- *submit copies of their 2004 annual reports to the Joint Legislative Audit Committee.*

Comprehensive information about programmatic results will more fully reflect the extent to which the programs have been successful at serving victims, offenders, and the community. This information will help the Legislature to make an informed decision about whether to continue supporting restorative justice programs or allow the pilot program to end. The Legislature could:

- Appropriate general purpose revenue to fund the two restorative justice coordinator positions in Milwaukee and Outagamie counties after FY 2004-05. As noted, Byrne program funds cannot be used to fund the positions in those two counties after that fiscal year.
- Direct OJA to report on the availability of Byrne program funds to support coordinator positions in counties other than Milwaukee and Outagamie counties. However, because OJA anticipates receiving reduced Byrne program funds in future years, using these funds to support coordinator positions would likely reduce the amount of funding available for other activities.
- Appropriate no additional funds and end the pilot program with FY 2004-05. Given the limited availability of Byrne program funds and the significant pressures on general purpose revenue spending, this option would require Milwaukee and Outagamie counties to locate other sources of revenue if they chose to continue their programs independently, as at least 11 other counties do.

■ ■ ■ ■

Restorative Justice Programs in Selected Wisconsin Counties

January 2004

In addition to Milwaukee and Outagamie counties, a number of other Wisconsin counties operate restorative justice programs. We contacted the following counties to obtain basic information about some of those counties' programs:

- Barron County;
- Brown County;
- Crawford County;
- Dane County;
- Douglas County;
- Jefferson County;
- La Crosse County;
- Marathon County;
- Marinette County;
- Monroe County; and
- Winnebago County.

Barron County

Program Operator: Barron County Restorative Justice Programs, Inc.

Programs Provided: Victim-Offender Conferencing
Victim Impact Panels
Teen Court
Restorative School Discipline

Funding Source: County funds, private grant funds, and participant fees

Population Served: Juveniles and adults

Recidivism Data: No

Control Group Data: No

Program Description:

The Victim-Offender Conferencing program, which began in 2000, works with juveniles and adults charged with or convicted of nonviolent misdemeanors. Conferences can occur either before or after a case is adjudicated. In 2003, 132 juvenile and adult conferences were completed. The program is voluntary for victims and offenders, who complete a satisfaction survey that is used to evaluate the program.

Teen Court is a voluntary alternative for juveniles who have been issued citations or charged with nonviolent misdemeanors. Juveniles pay a \$65 fee to participate, which includes the cost of educational programming. All cases are pre-adjudication, and completion of the program results in the dismissal of charges if the juvenile does not commit another crime. In 2003, 54 juveniles attended teen court hearings.

Brown County

Program Operator: Family Services of Northeast Wisconsin, Inc.

Programs Provided: Teen Court
Volunteers in Probation

Funding Source: County funds and participant fees

Population Served: Juveniles and adults

Recidivism Data: Yes, for the Volunteers in Probation program

Control Group Data: No

Program Description:

The annual budget for the county's two programs is approximately \$140,000, which funds three full-time equivalent positions.

Teen Court began in 1998 and works with juveniles charged with nonviolent misdemeanors and referred to the program by judges. Participation may be voluntary or mandatory, depending on the conditions of the judicial referral. A juvenile's record is cleared if the program is completed without further offense. Approximately 200 to 250 juveniles participate in the program annually. Juveniles complete a survey that is used to evaluate the effects of the program on participants' attitudes and behavior.

The Volunteers in Probation program works with first-time adult offenders convicted of nonviolent misdemeanors. Judges refer offenders to the program, but participation is voluntary. The primary focus of the program is to resolve problems contributing to criminal activity, such as unemployment, mental health issues, or financial difficulties. Approximately 140 offenders participate in the program annually. Participants complete a satisfaction survey that is used to evaluate the program.

Crawford County

Program Operator: Crawford County Restorative Justice

Programs Provided: Victim-Offender Mediation

Funding Source: County and private grant funds

Population Served: Juveniles and adults

Recidivism Data: Yes

Control Group Data: Yes

Program Description:

The Victim-Offender Mediation program began in April 2001 and works with adults and juveniles convicted of nonviolent misdemeanors. Mediation is mandatory by court order, provided a victim is interested. Victims may also request mediation. In 2003, 27 offenders and 34 victims participated in 37 mediations. Program staff use recidivism data and surveys completed by victims and offenders to evaluate the program.

Dane County

Program Operator: Dane County Juvenile Court Program

Programs Provided: Victim-Offender Conferencing
Circles
Retail Theft Diversion
Accountability Group

Funding Source: County funds

Population Served: Juveniles

Recidivism Data: No

Control Group Data: No

Program Description:

The Victim-Offender Conferencing program works with juveniles convicted of nonviolent misdemeanors. A juvenile is court-ordered to attend if a victim is interested. A nonprofit organization in Dane County facilitates conferencing services. In 2003, approximately 25 conferences were completed. Victims and offenders complete satisfaction surveys that are used to evaluate the program.

The Circles program is similar to the Victim-Offender Conferencing program, but it has more community involvement. Recently, the county has begun using Circles as a diversionary or pre-adjudication tool to resolve disputes in communities.

Douglas County

Program Operator: Douglas County Restorative Justice Commission

Programs Provided: Victim-Offender Dialogue
Victim-Offender Conferencing
Circles

Funding Source: Private grant funds

Population Served: Juveniles and adults

Recidivism Data: No

Control Group Data: No

Program Description:

The county's three programs began in 2000 and serve adult and juvenile offenders. The programs are victim-initiated and are voluntary for both victim and offender. The Victim-Offender Dialogue program involves a meeting between a victim and an offender, while the Victim-Offender Conferencing program includes friends and family members of a victim and an offender. The Circles program expands the group of participants to include interested community members indirectly affected by a crime. The nature of a crime and the types of victims involved determine who will attend.

Jefferson County

Program Operator: Jefferson County Delinquency Prevention Council

Programs Provided: Victim-Offender Conferencing
Teen Court
First Offenders

Funding Source: County funds

Population Served: Juveniles

Recidivism Data: Yes

Control Group Data: No

Program Description:

The Victim-Offender Conferencing program, which began in 1997, works with juveniles convicted of nonviolent misdemeanors. Juvenile participation is mandatory if a victim requests conferencing or if a court orders it. Approximately 60 conferences have occurred since the program began.

The Teen Court program, which began in April 1998, is a pre-adjudication diversionary program for first time or minor repeat misdemeanor offenders. Completion of the program results in the dismissal of charges if a juvenile does not commit another crime.

The First Offenders program, which began in 1997, works with first-time high-risk juvenile offenders, as well as those who have committed multiple minor offenses. The program lasts four weeks and has courses on anger management, conflict resolution, alcohol and drug issues, and the criminal and juvenile justice system. Participants complete satisfaction surveys that are used to evaluate the program.

Approximately 150 juvenile offenders participate in the county's programs annually.

La Crosse County

Program Operator: Coulee Region Mediation and Restorative Justice Center, Inc.

Programs Provided: Victim-Offender Mediation

Funding Source: County funds, private grant funds, and participant fees

Population Served: Juveniles and adults

Recidivism Data: Yes

Control Group Data: Yes

Program Description:

The Victim-Offender Mediation program works with violent and nonviolent juvenile and adult offenders. Juvenile mediation services have been offered for more than five years, and adult services were resumed in August 2003 after not being offered for several years. Participation can be part of a deferred prosecution agreement or can occur by court order after adjudication. Participation is mandatory if a victim is interested and the offender has passed an initial interview. In 2003, when 16 mediations were held, 42 percent of the cases involved property crimes, while 43 percent involved violent crimes. The remaining cases were other misdemeanors or citations. Victims and offenders complete satisfaction surveys that are used to evaluate the program.

Marathon County

Program Operator: Children Service Society

Programs Provided: Victim-Offender Conferencing

Funding Source: County funds

Population Served: Juveniles

Recidivism Data: No

Control Group Data: No

Program Description:

The Victim-Offender Conferencing program works with juveniles who committed nonviolent misdemeanors. Staff of Marathon County Social Services or a social worker can refer juveniles to the program, which can be part of a deferred prosecution agreement. Participation is mandatory if an initial screening interview determines a juvenile is appropriate for the program. Eight conferences have been conducted since the program began in summer 2003. Victims, offenders, and parents complete satisfaction surveys that are used to evaluate the program.

Marinette County

Program Operator: Marinette County Department of Health and Human Services

Programs Provided: Victim-Offender Mediation

Funding Source: State funds

Population Served: Juveniles

Recidivism Data: Yes

Control Group Data: No

Program Description:

The Victim-Offender Mediation program works with juveniles who have committed nonviolent misdemeanors. Mediation can be part of a deferred prosecution agreement or can occur by court order after adjudication. Participation is mandatory if a victim is interested. There were 38 referrals to the program in the last year and a half. Program staff use recidivism data and exit interviews with victims and offenders to evaluate the program.

Monroe County

Program Operator: Court House Justice Systems Department

Programs Provided: Juvenile and Adult Electronic Monitoring
Juvenile and Adult Community Service
Juvenile Intensive Supervision
OWI Intervention
Diversion
Victim-Offender Community Conferencing
Victim Impact Panel
Family Enhancement
Jail Ministry
Drug Court

Funding Source: County funds

Population Served: Juveniles and adults

Recidivism Data: Yes

Control Group Data: No

Program Description:

The Victim-Offender Community Conferencing program began in September 1999 and works with juvenile and adult offenders. The program addresses a variety of offenses but does not handle domestic abuse crimes. Participation can be part of a deferred prosecution agreement or can occur by court order after adjudication. Offenders must attend an initial conferencing interview. The county has conducted more than 100 conferences in the past several years.

Winnebago County

Program Operator: Winnebago County Teen Court

Programs Provided: Teen Court

Funding Source: County funds and participant fees

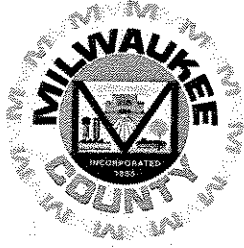
Population Served: Juveniles

Recidivism Data: Yes

Control Group Data: No

Program Description:

The Teen Court program, which began in 1997, works with juveniles charged with nonviolent misdemeanors. The Winnebago County Juvenile Intake Office refers offenders to teen court, or juveniles can enroll after completing a referral request provided by law enforcement officials at the time of ticketing or arrest. Participation is voluntary, and there is a \$10 participation fee. Completion of the program results in the dismissal of charges if a juvenile does not commit another crime. Juveniles and their parents complete satisfaction surveys that are used to evaluate the program.



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June 18, 2004

Ms. Janice Mueller
State Auditor
22 E. Mifflin Street, Suite 500
Madison, WI 53703

RE: Report on Restorative Justice Programs in Prosecutor's Offices

Dear Ms. Mueller:

We wish to first thank the staff of the LAB for their efforts at learning about Restorative Justice and the in-depth manner in which they reported on our work in Milwaukee. We particularly appreciated the dialog with LAB staff members about restorative justice concepts that needed deeper explanation.

Additional Restorative Justice Activities

In addition to the activities set forth in the Report, we wish to inform you of two new developments on the Restorative Justice front in Milwaukee County.

Community Accountability Circle for certain Drug Offenders

In March 2004, we began to operate "Community Accountability Circles". This Program is aimed at a certain class of felony drug offender: the non-violent 17-year-old who could be charged with certain marijuana-related offenses. Open to individuals without a prior felony drug conviction, this Program uses a process similar to the Conferencing model. However, since no actual victim is present, there is an expanded role for community members impacted by the particular drug offense. Should the young offender comply with the agreement reached at the Accountability Circle, there will be no felony charges issued against him/her. We have held seven such accountability circles in the past three months. Initial indications are that each offender is working hard to comply with the provisions of the agreement, and in the process, work out from underneath a felony conviction.

Community Conferencing Program at Milwaukee County Children's Court Center

Nationally, the majority of conferencing type programs function at the Children's Court level. We have just learned that the Milwaukee County District Attorney's Office has been awarded a grant through Safe and Sound to fund the salary of the non-lawyer Community Conferencing Program Manager 1/2 time for one year. Thus, the Community Conferencing Program will begin to operate at the Milwaukee County Children's Court Center (hereinafter CCC) later in 2004. A portion of the Restorative Justice Coordinator's time will be spent at CCC overseeing the development of this extension of

the Community Conferencing Program. We hope to handle 60 cases during the first year of operation at CCC.

Neighborhood Initiative

While we in fact have not kept a log of all who have participated in this Program, we believe that it has had a positive impact for those participants. This Initiative is premised upon the restorative practice of *community circles*, which provide a forum to have conversations around difficult issues. This Initiative began in earnest when we conducted a four-day training in the circle process in autumn, 2002. From that training several individuals have taken the lead and begun to use this process throughout Milwaukee County. While the District Attorney's Office is not formally using this process for charged or uncharged cases, we have participated alongside and witnessed other local agencies as they rely upon this process to tackle tough issues facing Milwaukeeans. For example, the Interfaith Conference of Greater Milwaukee continues to run a dialog around race relations using circle work. One MPS 6th grade staff has received this training, with one teacher in particular relying upon the practice every day in her classroom. Other agencies and individuals have relied upon this practice to help offenders who are returning to the community from incarceration.

LAB Recommendations

Specifically relating to the Report's recommendations (page 30-31), we are in communication with the Outagamie District Attorney's Office. We are exploring how to best coordinate our methodologies around measuring recidivism. Furthermore, we will be happy to submit our next annual report directly to the Joint Legislative Audit Committee.

We also have one additional recommendation – it is our sincere hope that the Legislature creates the time and public space to allow for individuals who have participated in the various Restorative Justice programs in both counties to tell their stories about the impact of that programming. Such a forum will allow policy makers to hear from the people most directly impacted by various state – funded or mandated activities. As Restorative Justice practices continue to expand and to add to the manner in which our communities deal with criminal justice matters, it is imperative that policy makers have as clear a picture of what actually occurs as possible. Hearing the experiences directly from those who have participated provides valuable information that cannot necessarily be transmitted through various reports or statistical analyses.

Other Programs and Practices to Review

The LAB Staff pointed out other Wisconsin county programs that rely upon Restorative Justice principles. It may be helpful for the legislature to review the Restorative Justice principles and practices presented through "BARJ" – the Balanced and Restorative Justice Project of the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). (See their website: <http://www.barjproject.org/>) Several states, including Michigan, Pennsylvania, and Illinois, have adopted the BARJ philosophy as the underlying philosophy of their juvenile code.

Future of Restorative Justice in Wisconsin

Clearly, contending with how to fund Restorative Justice initiatives in an era of belt-tightening is a difficult issue. Yet, the combination of the success of the programs, as evidenced by the various national and local recidivism studies, and the satisfaction of the participants, as reported in national studies and anecdotally through our office, point to significant benefits of programs that rely upon Restorative Justice principles. Simply rejecting funding for Restorative Justice programming may be an example of the proverbial "penny-wise but pound foolish" idiom.

When exposed to valid Restorative Justice practices, Wisconsin residents - victims, offenders and community members - have found them to be keenly helpful and fulfilling. The underlying principles mesh with the solid progressive and forward-looking tradition of the State of Wisconsin.

The LAB staff prepared a chart listing other Restorative Justice programs throughout the state along with their funding sources. Simply suggesting that a county seek non-profit funding to allow such programs to operate potentially leaves too much to chance. And, those counties are left with the dilemma of what to do once the private funding dries up. If the practices and principles of Restorative Justice represent significant progress in the manner in which we deal with crime victims and offenders, then, we need to find sufficient and sustainable sources of funding to ensure that such programming continues to grow. As these programs grow, the principles and practices that they represent should become part of the way our communities engage in the "doing" of justice.

Our experiences in Milwaukee have led us to believe that Restorative Justice practices do, in fact, provide a better way of handling certain types of offenses. Over time, we will learn more and improve restorative practices to more effectively and compassionately deal with the pain of victims, and the fear generated by crime in our communities. We will also improve the manner in which we hold offenders accountable for their actions.

We look forward to working with you to devise effective and creative ways to continue this work.

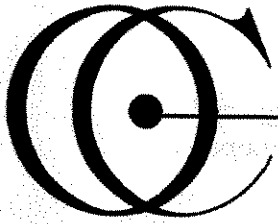
Sincerely,



E. Michael McCann
District Attorney



David Lerman
Restorative Justice Coordinator



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June 21, 2004

Ms. Janice Mueller

State Auditor

22 E. Mifflin Street, Suite 500

Madison, WI 53703

RE: Report on Restorative Justice Projects – Milwaukee and Outagamie Counties

Dear Ms. Mueller:

We write to your attention in response to the recent report from LAB. We appreciate the hardwork and time spent by the LAB staff in creating the report. We appreciate their time involved in first having to become acquainted with the concept of restorative justice and then creating a report to explain the work the two counties have done in the area of restorative justice and prosecution.

As you will find included within the report is a recommendation that Outagamie County create more defined and case specific control group for analysis of the Drunk Driving Impact Panel. Discussions were held with LAB staff near the end of their audit period. It was explained that each individual district attorney's office does not have independent access to another county's case management system. It was also explained that the public case management systems do not allow for one to select and create list of cases by specific statute but rather only by case type (criminal felony, criminal misdemeanor, criminal traffic, etc). We have begun the creation of a control group utilizing a neighboring county's statistics by sorting through each criminal traffic case filed and then determining if the offense was a 2nd offense drunk driving case. We will report the results of this analysis to LAB and directly to the attention of Senator Roessler and Representative Jeskewitz. In addition, a similar control group will be prepared and then analyzed for the county's domestic violence program. A report will be forwarded to the same parties as previously mentioned.

Our office is in discussions with Milwaukee County to explore the best methodology and analysis to utilize in the future. It is anticipated that a consistent analysis will be developed and then available for the legislature's future review.

While we understand the State's current budget issues will be a major concern for the legislature, we also hope the analysis of the restorative justice programs in existence highlights the positive effects these programs have upon the victims of crime, the defendants and the community as a whole. With an eye on the best economics applied to prosecution methods, the restorative justice programs written about have had an overwhelming positive effect. A community which is victimized is often left feeling angered. Restorative Justice programs allows the community to work with the criminal justice process in a new way unlike the traditional models of criminal justice. The community is actively engaged in addressing the crime that occurred and in crafting a resolution to the situation. It is very frequent that victims who participate in restorative justice programs want the offender to hear how the crime has affected them in hopes of making a positive impact on the person's future. The recidivism rates show that these programs have had a positive effect in that these offenders are less likely to engage in future crimes.

The programs here in Outagamie County have shown us that victims of crime are ready to assist in the resolution of their cases in a forum that allows for their anger and fears to be addressed. It also allows for a community to be actively involved in the handling and punishment given for crimes in their neighborhoods. It has allowed our office to address the needs of victims in a more compassionate manner. We are always changing our practices and programs based upon impact for the case participants, both victims and defendants.

Please feel free to contact either of us if you have any additional questions. We appreciate your time and efforts in reviewing our work and look forward to engaging in discussions about how to continue this work.

Sincerely,



Carrie A. Schneider/Melinda Tempelis
District Attorney/Assistant District Attorney