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☞ Details: Public Hearing: Proposed Audit: Effect of Criminal Court Jurisdiction on 17-year-olds

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Joint

(Assembly, Senate or Joint)

### Committee on Audit...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Record of Committee Proceedings

### Joint Committee on Audit

#### Proposed Audit: Effect of Criminal Court Jurisdiction on 17-year-olds

March 8, 2007

#### **PUBLIC HEARING HELD**

- Present: (10) Senators Sullivan, Lassa, Decker, A. Lasee and Cowles; Representatives Jeskewitz, Rhoades, Kerkman, Cullen and Parisi.
- Absent: (0) None.

#### Appearances For

- Tamara Grigsby, Milwaukee — Representative, Wisconsin State Assembly
- Deirdre Wilson Garton, Madison — Chair, Governor's Juvenile Justice Commission
- Wendy Henderson, Madison — Wisconsin Council on Children and Families
- Lena Taylor, Milwaukee — Senator, Wisconsin State Senate

#### Appearances Against

- None.

#### Appearances for Information Only

- Janice Mueller, Madison — State Auditor, Legislative Audit Bureau
- Kate Wade, Madison — Legislative Audit Bureau
- Susan Crawford, Madison — Executive Assistant, Department of Corrections
- Mark Mertens, Green Bay — Wisconsin County Human Services Association

#### Registrations For

- Sarah Diedrick Kasdorf, Madison — Wisconsin Counties Association
- Nick Chiarkas — Wisconsin State Public Defender

#### Registrations Against

- None.

#### Registrations for Information Only

- None.

March 8, 2007

**EXECUTIVE SESSION HELD**

Present: (10) Senators Sullivan, Lassa, Decker, A. Lasee and Cowles; Representatives Jeskewitz, Rhoades, Kerkman, Cullen and Parisi.

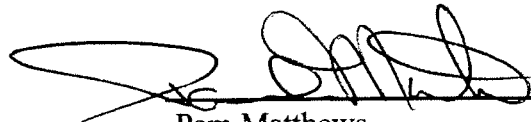
Absent: (0) None.

Moved by Representative Cullen, seconded by Senator Cowles that **Proposed Audit: Effect of Criminal Court Jurisdiction on 17-year-olds** be approved according to the scope statement dated March 1, 2007 prepared by the Legislative Audit Bureau with modifications by the committee.

Ayes: (10) Senators Sullivan, Lassa, Decker, A. Lasee and Cowles; Representatives Jeskewitz, Rhoades, Kerkman, Cullen and Parisi.

Noes: (0) None.

ADOPTION RECOMMENDED, Ayes 10, Noes 0

  
Pam Matthews  
Committee Clerk



# Tamara GRIGSBY

State Representative  
18th Assembly District

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February 14, 2007

Senator Jim Sullivan and  
Representative Suzanne Jeskewitz, Co-chairpersons  
Joint Legislative Audit Committee  
State Capitol  
Madison, Wisconsin 53702

Dear Senator Sullivan and Representative Jeskewitz:

I write today to request that you direct the Legislative Audit Bureau to conduct an audit of the effects of criminal court jurisdiction over 17-year-olds.


As you know, Wisconsin law was changed in 1996 to make 17-year-olds alleged to have violated criminal law subject to criminal court jurisdiction. I believe that an audit would provide valuable information about the effects of criminal court jurisdiction over 17-year-olds, including, for example:

- the number of 17-year-olds who have entered the criminal court system;
- the number of jail and prison admissions for 17-year-olds convicted in criminal court;
- the types of offenses for which 17-year-olds have been confined;
- the cost of confinement for 17-year-olds in the criminal justice system;
- the number of 16-year-olds waived into criminal court;
- the recidivism rate of 17-year-old offenders; and
- the approaches used by other states in treating 17-year-olds in criminal court.

During the last legislative session, it was proposed that the minimum age for criminal court jurisdiction again be set at 18 years. I believe a comprehensive review of the 1996 policy change will help us make more informed decisions about whether future changes are needed.

Thank you for your consideration of this request.

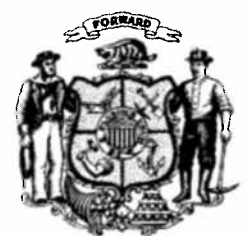
Sincerely,



Tamara Grigsby  
State Representative  
18th Assembly District  
TDG/ckm



WISCONSIN STATE LEGISLATURE





## WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

February 14, 2007

Ms. Janice Mueller, State Auditor  
Legislative Audit Bureau  
22 East Mifflin Street, Suite 500  
Madison, Wisconsin 53702

Dear State Auditor Mueller:

We write today to request that you develop a background or "scope" statement for a proposed audit of the effects of criminal court jurisdiction over 17-year-olds.

Wisconsin law was changed in 1996 to make 17-year-olds alleged to have violated criminal law subject to criminal court jurisdiction. We believe that an audit would provide valuable information about the effects of criminal court jurisdiction over 17-year-olds, including, for example:

- the number of 17-year-olds who have entered the criminal court system;
- the number of jail and prison admissions for 17-year-olds convicted in criminal court;
- the types of offenses for which 17-year-olds have been confined;
- the cost of confinement for 17-year-olds in the criminal justice system;
- the number of 16-year-olds waived into criminal court;
- the recidivism rate of 17-year-old offenders; and
- the approaches used by other states in treating 17-year-olds in criminal court.

During the last legislative session, it was proposed that the minimum age for criminal court jurisdiction again be set at 18 years. We believe a comprehensive review of the 1996 policy change will help us make a more informed decision about whether future changes are needed. After receiving your scope statement, it is our intention to hold a public hearing at which time the Joint Legislative Audit Committee will consider this proposed audit.

Thank you for your assistance.

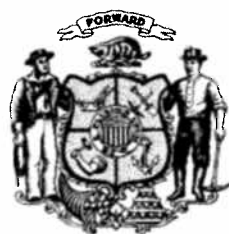
Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee



# WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE  
Joint Legislative Audit Committee

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

February 19, 2007

Mr. Matthew Frank, Secretary  
Department of Corrections  
3099 East Washington Avenue  
Madison, Wisconsin 53707

Dear Mr. Frank:

The Joint Legislative Audit Committee will hold a public hearing at 10:00 a.m. on Thursday, March 8, 2007, in Room 411 South of the State Capitol. At that time, the Committee will consider a proposed audit of the effects of criminal court jurisdiction on 17-year-olds.

As this proposed audit relates to the activities of the Department of Corrections, we ask that you, or appropriate members of your staff, be present at the hearing to offer comments on the proposed audit and to respond to questions from committee members. The Legislative Audit Bureau will forward a memorandum outlining the scope of the proposed audit for your review in advance of the hearing.

Please contact Ms. Pamela Matthews in the office of Representative Suzanne Jeskewitz at (608) 266-3796 to confirm your participation at the hearing. Please plan to provide each committee member with a written copy of your testimony at the hearing. Thank you for your cooperation and we look forward to seeing you on March 8<sup>th</sup>.

Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Janice Mueller  
State Auditor





WISCONSIN STATE LEGISLATURE

*Joint Legislative Audit Committee*

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

February 19, 2007

Mr. Dave Steingraber, Executive Director  
Office of Justice Assistance  
131 West Wilson Street, Suite 610  
Madison, Wisconsin 53702

Dear Mr. Steingraber:

The Joint Legislative Audit Committee will hold a public hearing at 10:00 a.m. on Thursday, March 8, 2007, in Room 411 South of the State Capitol. At that time, the Committee will consider a proposed audit of the effects of criminal court jurisdiction on 17-year-olds.

As this proposed audit relates to the activities of the Office of Justice Assistance, we ask that you and the appropriate members of your staff be present at the hearing to offer comments on the proposed audit and to respond to questions from committee members. The Legislative Audit Bureau will forward a memorandum outlining the scope of the proposed audit for your review in advance of the hearing.

Please contact Ms. Pamela Matthews in the office of Representative Suzanne Jeskewitz at 266-3796 to confirm your participation at the hearing. Please plan to provide each committee member with a written copy of your testimony at the hearing. Thank you for your cooperation and we look forward to seeing you on March 8<sup>th</sup>.

Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Janice Mueller  
State Auditor



WISCONSIN STATE LEGISLATURE

*Joint Legislative Audit Committee*

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

February 19, 2007

Ms. Deirdre Wilson Garton, Chairperson  
Governor's Juvenile Justice Commission  
125 North Hamilton Street, #1403  
Madison, Wisconsin 53703

Dear Ms. Garton:

The Joint Legislative Audit Committee will hold a public hearing at 10:00 a.m. on Thursday, March 8, 2007, in Room 411 South of the State Capitol. At that time, the Committee will consider a proposed audit of the effects of criminal court jurisdiction on 17-year-olds.

As this proposed audit relates to the interests of the Governor's Juvenile Justice Commission, we ask that you be present at the hearing to offer comments on the proposed audit and to respond to questions from committee members. The Legislative Audit Bureau will forward a memorandum outlining the scope of the proposed audit for your review in advance of the hearing.

Please contact Ms. Pamela Matthews in the office of Representative Suzanne Jeskewitz at (608) 266-3796 to confirm your participation at the hearing. Please plan to provide each committee member with a written copy of your testimony at the hearing. Thank you for your cooperation and we look forward to seeing you on March 8<sup>th</sup>.

Sincerely,

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Janice Mueller  
State Auditor



WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:  
State Senator Jim Sullivan  
State Representative Suzanne Jeskewitz

February 19, 2007

Pastor Archie Ivy, Chairperson  
Milwaukee Child Welfare Partnership Council  
c/o New Hope Baptist Church  
2433 West Roosevelt Drive  
Milwaukee, Wisconsin 53209

Dear Pastor Ivy:

The Joint Legislative Audit Committee will hold a public hearing on Thursday, March 8, 2007, at approximately 11:00 a.m. in Room 411 South of the State Capitol. The purpose of this hearing will be to follow-up on the progress of the Department of Health and Family Services in addressing the findings and recommendations presented in the Legislative Audit Bureau's comprehensive evaluation of the Milwaukee County Child Welfare program (reports 06-1 and 06-2).

As chairperson of the Milwaukee Child Welfare Partnership Council, we invite you to be present at the hearing to offer testimony in response to the audit findings, to represent the views of the Partnership Council on issues pertaining to the child welfare program, and to respond to questions from committee members. In addition, we anticipate a thorough discussion of child safety services and the provision of these services to program participants. As indicated on the enclosed hearing notice, the testimony received by the Committee during this portion of the public hearing will be by invitation only. Please plan to provide each committee member with a written copy of your testimony at the hearing.

Please contact Ms. Pamela Matthews in the office of Representative Suzanne Jeskewitz at (608) 266-3796 to confirm your participation at the hearing. Thank you for your cooperation and we look forward to seeing you on March 8<sup>th</sup>.

Sincerely

Senator Jim Sullivan, Co-chair  
Joint Legislative Audit Committee

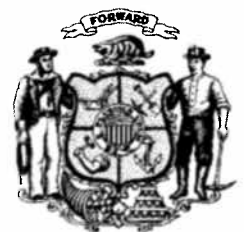
Representative Suzanne Jeskewitz, Co-chair  
Joint Legislative Audit Committee

Enclosure

cc: Janice Mueller  
State Auditor



# WISCONSIN STATE LEGISLATURE





STATE OF WISCONSIN

Legislative Audit Bureau

22 E. Mifflin St., Ste. 500  
Madison, Wisconsin 53703  
(608) 266-2818  
Fax (608) 267-0410  
Leg.Audit.Info@legis.state.wi.us

Janice Mueller  
State Auditor

DATE: March 1, 2007

TO: Senator Jim Sullivan and  
Representative Suzanne Jeskewitz, Co-chairpersons  
Joint Legislative Audit Committee

FROM: Janice Mueller  
State Auditor *Janice Mueller*

SUBJECT: Proposed Audit of the Effects of Criminal Court Jurisdiction on  
17-Year-Olds—Background Information

At your request, we have developed some background information the Joint Legislative Audit Committee may find useful in considering a request for an audit of the effects of criminal court jurisdiction on 17-year-olds. Under the provisions of 1995 Wisconsin Act 27, 17-year-olds alleged to have violated criminal law are subject to prosecution as adults; prior to the law's enactment, 17-year-olds were subject to juvenile court jurisdiction.

Concerns have been expressed that the effects of this jurisdictional change are not well understood. Some who are concerned have cited studies completed in other states that show adverse effects for recidivism among 17-year-olds prosecuted in adult court, both in terms of the types of offenses and the speed with which subsequent offenses are committed. Furthermore, concerns have been raised about the educational attainment of these offenders, the rehabilitative programming they receive while incarcerated or under supervision, and their capacity to maintain employment upon release.

The Legislature has enacted numerous changes to the State's juvenile justice system since 1993. Chapter 938, Wis. Stats., known as the Juvenile Justice Code, guides the actions of the circuit courts when they are exercising jurisdiction over children between 10 and 16 years of age who are alleged to have violated state or federal criminal law. The stated legislative intent of the Juvenile Justice Code is to promote a system to deal with juvenile delinquency, protect the community, impose accountability on juvenile offenders, and equip juvenile offenders to live responsibly and productively. County supervision and confinement occur for some juveniles who are adjudicated delinquent. In contrast, juveniles with specific records of delinquency or who have committed certain serious offenses are subject to state supervision and confinement in the Serious Juvenile Offender program.

In Wisconsin, the Office of Justice Assistance compiles crime and arrest data from law enforcement agencies. These data, along with information from selected counties and the

Department of Corrections, could be compiled to assess the experience of 17-year-olds prosecuted as adults in Wisconsin between 2001 and 2006.

An audit of the effects of criminal court jurisdiction on 17-year-olds could include:

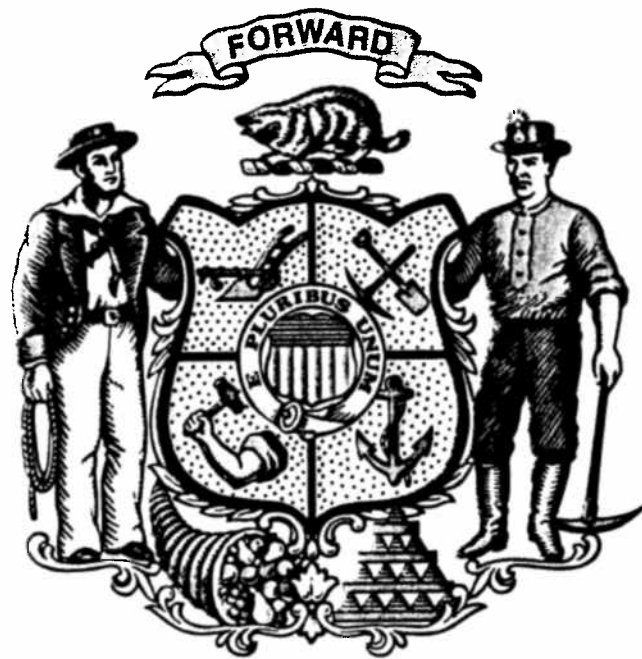
- identification of the number of 17-year-olds who have entered the adult criminal court system each year;
- an enumeration of jail and prison admissions for 17-year-olds convicted in adult criminal court each year;
- a categorization of offenses for which 17-year-olds have been convicted;
- an analysis of the costs of confinement for 17-year-olds;
- an enumeration of 16-year-olds waived at judicial discretion into adult criminal court;
- a review of rehabilitative programming available to 17-year-old offenders;
- an analysis of recidivism rates among 17-year-old offenders; and
- a review of current jurisdictions for 17-year-olds in selected other states.

If you have any questions regarding this information, please contact me.

JM/KW/bm

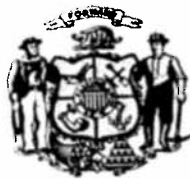
cc: Senator Julie Lassa  
Senator Russell Decker  
Senator Alan Lasee  
Senator Robert Cowles

Representative Samantha Kerkman  
Representative Kitty Rhoades  
Representative David Cullen  
Representative Joe Parisi



**Jim Doyle**  
Governor

**Matthew J. Frank**  
Secretary



**State of Wisconsin**  
**Department of Corrections**

---

Mailing Address

3099 E. Washington Ave.  
Post Office Box 7925  
Madison, WI 53707-7925  
Telephone (608) 240-5000  
Fax (608) 240-3300

Testimony for Legislative Audit Committee Hearing  
Criminal Court Jurisdiction for 17-Year-Old Offenders  
Department of Corrections  
March 8, 2007

Good morning, co-chairs Sullivan and Jeskewitz and members of the Joint Legislative Audit Committee. My name is Susan Crawford. I am the executive assistant at the Department of Corrections. Thank you for the opportunity to testify today.

About 10 years have passed since the State of Wisconsin made the decision to change the age of adulthood to 17 years old for the purpose of criminal investigation and prosecution. This was a significant change in policy that was enacted as part of a comprehensive juvenile justice system reform.

This policy had an extensive impact on the criminal justice system, affecting the way county human services departments, the courts, law enforcement agencies, district attorneys, public defenders, and the Department of Corrections carry out their respective roles in the state.

The Department of Corrections supports the proposed audit. With ten years of experience and data under the existing policy structure, an audit is both timely and warranted. An audit will help us to assess the effectiveness and impact of treating all 17 year olds as adults within the criminal justice system.

This audit may help us to determine whether this policy has had a positive impact on public safety. To us, there is no question that 17 year olds who commit serious, violent crimes must be held accountable in the adult prison system. However, the impact and effectiveness of treating all 17-year-old offenders as adults deserves a close look.

For example, has this policy helped to deter young people from committing crimes in the first place? Has it reduced recidivism by young people who have committed crimes and been prosecuted as adults? Has it improved the likelihood that our youth will become successful, productive adults who are contributing their talents to our communities?



These are important public safety issues. As a state, we need to continually assess, monitor, and evaluate our policy decisions to determine whether our policies and practices are having the desired effect of reducing crime and creating safer communities.

Likewise, before considering any significant **change** in criminal justice policy, it is just as important to consider the likely impact on public safety, the fiscal impact, and the operational impact on the various entities that make up our criminal justice system

The audit thus would tackle a series of complex issues, as laid out by the Audit Bureau memorandum.

We do have some recommendations regarding additional issues that should be included in the audit to ensure that it provides a full evaluation of the effects of treating 17 year olds as adults within the criminal justice system.

(1) **Enumeration of offenders placed on probation who were 17 years old at the time of the offense.** The audit memorandum proposes that the audit include an enumeration of jail and prison admissions for 17 year olds who entered the adult criminal court annually. We recommend that the audit also enumerate ***admissions to probation*** for this population.

In many, but not all cases, individuals placed on probation also serve a period of jail time as a condition of probation. Thus, to get a complete picture of the way courts sentence 17 year olds in the adult system, the number of admissions to probation should be included.

As part of this inquiry, we also recommend that the audit examine the length of sentence imposed for each of these disposition categories (prison sentence, probation, jail term).

The Department of Corrections could furnish data regarding offenders admitted to probation who were 17 years old at the time of the crime. The Department could also furnish data regarding admissions to state prisons for inmates who were 17 years old at the time of the offense. Data regarding jail admissions would have to be obtained from each county.

(2) **Rehabilitation programs.** The audit memorandum proposes a review of rehabilitative programming available to offenders who were 17 years old at the time of the offense. We recommend that this review include programs available

within the state prison system, within the county jails, and for those under community supervision. This will allow the audit to present a comprehensive picture of the types of services available under these different sentencing options.

(3) **Recidivism and revocation data**. The Department of Corrections keeps long-range statistics on recidivism for offenders who enter our system, either on community supervision or in the adult prison system. We define recidivism as committing a new offense within a specified period of time, resulting in a Wisconsin criminal court sentence to a state prison or supervision.

Another relevant public safety indicator is revocation of probation, parole, or extended supervision. In many cases, a revocation is not based on a new crime, but on an offender's failure to comply with rules or conditions of supervision. Thus, revocation statistics may be highly relevant in determining the impact of sentences imposed in cases involving offenders who committed crimes as 17 year olds.

(4) **Current system for juvenile offenders**. To provide a relevant point of comparison, we recommend that the audit collect and review data regarding dispositions in juvenile cases, available rehabilitation programs for juveniles in the community and in the state juvenile correctional institutions, juvenile recidivism rates, juvenile revocation rates, and costs of confinement for juveniles.

(5) **Assessment of fiscal impact of the policy of treating 17 year olds as adults**. While the audit memorandum indicates that costs of confinement should be analyzed, we believe there are broader fiscal issues to be addressed by this audit. The state's juvenile justice system and the adult justice system are funded differently. The fiscal impact of this policy affects the budgets of the county human services, county jails, the court system, and the state Department of Corrections. In reviewing the effects of placing 17 year olds in the adult system, we believe it is important to fully analyze the fiscal impact of treating 17 year old offenders as adults rather than as juveniles. Likewise, if the audit addresses the potential impact of returning some 17 year olds to the juvenile system, the audit should assess the fiscal impact of such a policy change across the system.

(6) **Crime rates and demographic data regarding 17 year old offenders**. The audit memorandum suggests that the audit should include a categorization of the types of offenses for which 17 year olds have been convicted. We recommend that the audit also look at the demographics of these offenders, including breakdowns by race, geography, gender, and the per-capita crime rates for 17

year olds over the past ten years. Gathering and assessing this data will allow the state to evaluate the full impact of this policy on public safety.

As a final caveat, for a number of the items proposed to be addressed as part of the audit, the Department of Corrections would be able to contribute part but not all of the data. In lieu of raising those more technical issues today, I will simply say that the Department would be happy to work closely with the Audit Bureau to provide the data we have available, and to offer our suggestions for other potential sources of data not maintained by the Department.

If the Committee has any specific questions regarding the data DOC has available or any other questions, I would be happy to try to answer them, or to refer them to other knowledgeable DOC staff who are here with me today.

The Department is committed to assisting in whatever way we can to ensure that the proposed audit is successful. Thank you for the opportunity to offer the Department's perspective today on this important issue of public safety.



## Testimony

By: Deirdre Wilson Garton  
Chair, Governor's Juvenile Justice Commission  
State of Wisconsin

To: Joint Legislative Audit Committee

Re: Proposed audit related to the effects of the Criminal Court Jurisdiction of 17 year olds in the State of Wisconsin

Date: March 8, 2007  
10 A.M.

Good morning. First I would like to thank the members of the Committee for inviting me to participate in the hearing this morning and for continuing your interest in this very important issue.

As you may recall, the Governor's Juvenile Justice Commission recommended that the Legislative Audit Committee undertake such a study in 2005. I would like to take a moment to put that request into a context for you.

Undertaking such a study would put you in good company with several other states that are reexamining their laws with regard to the age of criminal responsibility. Virginia recently passed legislation changing its requirement that once a youth is waived into adult court s/he will always remain under adult jurisdiction. Connecticut has just completed a year long study to determine whether they should raise their age for criminal responsibility from 16 to 18. The recommendation there is that they make that change.<sup>1</sup>

In thinking about this question, the Governor's Juvenile Justice Commission is still not ready to make a recommendation as to whether the age for criminal responsibility should be returned to 18 from 17. We feel strongly that we should know what the costs are of that paradigm shift. Which is the more effective way to keep communities safe? In my letter of September 2006 to the Chairs of the Legislative Audit Committee, I posed questions about system utilization, fiscal impact and outcomes that we think should be included in the study.<sup>2</sup> One that was left out in that list, however, and that is very

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<sup>1</sup> [http://www.ctjja.org/media/resources/resource\\_230.pdf](http://www.ctjja.org/media/resources/resource_230.pdf)

<sup>2</sup> Proposed Questions for Legislative Audit Bureau Study on Effectiveness of Juvenile Justice Reforms of the 1990's in Wisconsin

### Systems Utilization Questions – 1995 and 2005

1. How many 17 year olds were taken into custody as adults and arrested during a one year (decide on a time frame) period?
2. How many minors under the age of 17 were waived into adult court or had original jurisdiction in adult court during the same time period?
3. Of those described in sections 1 & 2, how many
  - a. were not charged in adult court;
  - b. were held in jail pending charging decision and for what length of time;
  - c. were charged for the original crime;

important to consider is the impact on disproportionate minority confinement. Given the dismal rates of people of color in our correctional institutions, any study should include a review of racial data.

To give you some background, the Commission was created by Executive Order for the purpose of advising the Governor and the legislature on policy related to juvenile justice matters.

The Commission has responsibility under the federal Juvenile Justice and Delinquency Prevention Act to be the conduit for federal funds coming into the state. We make recommendations for grants around juvenile accountability under the Juvenile

- 
- d. were charged with bail jumping;
  - e. were deferred into adult first offender programs, resulting in no criminal record,
  - f. were convicted through court proceedings/ pled guilty or NC / were found innocent / charges were dismissed;
  - g. were imprisoned and for what crimes;
  - h. were placed on probation with jail time to be served and for what crimes;
  - i. were placed on probation and for what crimes;
  - j. were revoked from probation at what rate compared to non-youth adult offenders;
  - k. were eligible to have their records expunged;
  - l. have had their records expunged.
  - m. committed another crime (criminal failure), how long after the first conviction and of what sort, i.e. felony, misdemeanor, violent, against persons.
4. In 2005, how many youth were prosecuted through the Serious Juvenile Offender program at what age and for what crimes?
  5. In 2005, how many 18, 19 and 20 year olds were convicted with a previous adult crime from when they were 17 on their record.

#### **Fiscal Questions**

1. What is the cost of 17 year old involvement in the adult system as compared to the cost of older adults at the following stages of the process:
  - a. Holding a youth (17 or under) in jail, pretrial, including educational and other costs not associated with holding an adult older than 17;
  - b. Deferred prosecution;
  - c. Holding a youth in jail, post trial, including educational and other costs not associated with holding an adult older than 17;
  - d. Supervision by community corrections of the Wisconsin Department of Corrections of the youth, including costs not associated with supervising an adult older than 17 such as educational and housing costs;
  - e. Imprisonment by the Wisconsin Department of Corrections

#### **Outcome Questions**

1. What is the impact of a felony record in one's ability to attend school with the help of loans, get a job, a lease, and resulting inability to contribute to the tax base?
2. What is the relative likelihood that a youth will commit another crime if prosecuted as an adult or a juvenile?
3. Taking into account outcomes 1 and 2, how do the costs of services in adult corrections compare to the costs of services in the juvenile system, at the state and local level?

Accountability block grant program, through the formula grant program under the JJDP Act and through the Title V program around delinquency prevention efforts.

In 2003, the writing was on the wall that federal funds would be decreasing significantly. There were a number of reasons for that. The rate of juvenile crime had been decreasing rapidly during the last decade, contrary to the expectation of many. And the focus of the federal government had moved away from domestic programs and toward defense and homeland security.

Given these realities, the Commission felt bound to consider how to maximize the impact of the diminishing dollars over which we had responsibility. We asked ourselves a simple question. How can we spend our money most effectively? The Commission felt strongly that it must look at what we actually know works with our delinquent children. It would be irresponsible for us to make grant decisions without that knowledge if it existed.

Luckily, the last decade has seen an explosion of research around the effectiveness of different programs in the juvenile delinquency area. There are three research topics that are most relevant to the question of returning 17 year olds to the juvenile system in Wisconsin.

The first topic is around cost effectiveness of different models. You may be familiar with the work of the Washington State Public Policy Institute (WSPPI) which conducted a cost benefit analysis of different criminal and juvenile prevention and intervention programs. That meta analysis showed that diversion programs, family based treatment programs, and treatment foster care, for example, give the greatest return on investment.<sup>3</sup> It also showed that some popular programs such as Scared Straight and DARE were not as effective and indeed tended to cause kids to engage in delinquent behavior.<sup>4</sup>

To bring this information home to Wisconsin and offer a resource for local and state governments interested implementing cost effective programs, we partnered with and commissioned from the UW Madison, our own meta analysis called *What Works, Wisconsin*. In it we provide similar information to the WSPPI study but also tease out the ingredients of effective programs.<sup>5</sup> The response to our dissemination of *What Works, Wisconsin* has taken us all by surprise. Counties are hungry for the information and hungry to implement programs.

The second topic of research is around brain development that was funded by the MacArthur Foundation over the last ten years. Others will testify about the impact of this research but let me just say that the Commission finds this research compelling and hopeful. This research persuaded the United States Supreme Court to decide in Roper v. Simmons that it would be cruel and unusual punishment to execute a person who

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<sup>3</sup> THE COMPARATIVE COSTS AND BENEFITS OF PROGRAMS TO REDUCE CRIME Version 4.0, Steve Aos, Polly Phipps, Robert Barnoski, Roxanne Lieb, Washington State Institute for Public Policy, May 2001  
<http://www.wsipp.wa.gov/pub.asp?docid=01-05-1201>

<sup>4</sup> Ibid.

<sup>5</sup> What Works, Wisconsin. What Science Tells Us about Cost Effective Programs for Juvenile Delinquency Prevention, Stephen A. Small, Arthur J. Reynolds, Cailin O'Connor, and Siobhan M. Cooney, June 2005.

commits a capital crime when s/he was under the age of 18.<sup>6</sup> This research assures us, as well, that children and youth's deficiencies are not immutable.

Right here in Wisconsin, the Mendota Juvenile Treatment Center's program has shown that even the most dangerous youth can change. And as a result, cost taxpayers less. Looking at matched pairs of 200 kids, researchers found that for an investment in treatment of about \$4300 more than what it would cost to hold the youth in juvenile corrections the taxpayers saved approximately \$43,000 in direct court costs and reincarceration costs during a 4.5 year period. The kids receiving MJTC treatment who arguably were worse kids than the control group and would be expected to commit the worst crimes didn't. They changed—and as a result cost the taxpayers less.

The third topic of research is around the question of the effectiveness of having young people prosecuted in the adult system. There have been a number of studies that show the result of sending kids to adult court actually results in those youth committing more serious crimes in the future.<sup>7</sup> In addition there are a number of studies that suggest that youth of color are disproportionately impacted. (I have cited those studies in the written version of my remarks.)

We know that we have significant issues in Wisconsin around disproportionate minority contact. The January 2007 study by the National Council on Crime and Delinquency found that Wisconsin's numbers of African American incarcerated youth are the worst in the country. That should make all of us sit up and take notice and question whether there are systemic/structural/cultural issues at work here.<sup>8</sup>

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<sup>6</sup> 543 U.S. 551; 125 S. Ct. 1183; 161 L. Ed. 2d 1; 2005 U.S. LEXIS 2200; 73 U.S.L.W. 4153; 18 Fla. L. Weekly Fed. S 131 (2005).

<sup>7</sup> Studies of matched pairs of offenders, one going to juvenile court and the other to adult court found that the adult system kids were more likely to commit a more serious crime. [Lanza-Kaduce, Lonni; Frazier, Charles E.; Lane, Jodi and Bishop, Donna: *Juvenile Transfer to Criminal Court Study: Final Report*, Florida Department of Juvenile Justice, Office of Juvenile Justice and Delinquency Prevention, January 2002.]

Comparison groups of 15 and 16 year olds found that serious offenders sent to juvenile court were far less likely to re-commit a new crime (New York and New Jersey, 2000) [Fagan, Jeffrey, "The Comparative Advantage of Juvenile Versus Criminal Sanctions on Recidivism Among Adolescent Felony Offenders," *Law and Policy*, Vol.18, 1996, cited in the *Changing Borders of Juvenile Justice: Transfer of Adolescents to Criminal Court*, edited by Jeffrey Fagan and Franklin E. Zimring, University of Chicago Press, 2000].

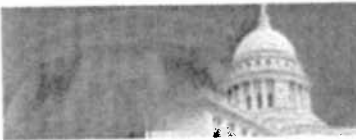
Recidivism of 557 Pennsylvania teens matched with others who were tried in adult court found those in the adult system had higher re-offense rates and more likely to be charged with violent felonies.(Pennsylvania, 2001) [Mayers, David, *Adult Crime, Adult Time: Punishing Violent Youth in the Adult Criminal Justice System*, Sage Publications (2003), [www.sagepub.com](http://www.sagepub.com)]

Study found that 24 months after being released, youth transferred to adult Court were more likely to re-offend (Minnesota) [Podkapacz, Marcy and Feld, Barry C., "The End of the Line: An Empirical Study of Judicial Waiver," *Journal of Criminal Law and Criminology*, 86 cited in "Brick by Brick: Dismantling the border between juvenile and adult justice." *Criminal Justice 2000, Volume 2*, Washington, DC: National Institute of Justice, U.S. Department of Justice, 2000.]

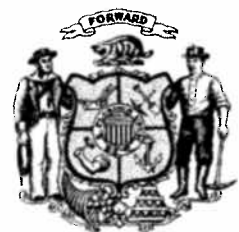
<sup>8</sup> *And Justice for Some, Differential Treatment of Youth of Color in the Justice System*, National Council on Crime and Delinquency, January 2007.



The Commission feels strongly as I mentioned earlier that we should make decisions based on what we know. The Legislative Audit Study that is being proposed will answer many of the questions that need to be answered before we can make a recommendation to the Governor and to you.



# WISCONSIN STATE LEGISLATURE





WISCONSIN COUNCIL ON

children  
& families

Raising Voices to Make Every Kid Count

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To: Joint Legislative Audit Committee

From: Wendy Henderson, Policy Analyst

Re: Proposed Audit of the Effects of Criminal Court  
Jurisdiction on 17-Year-Olds

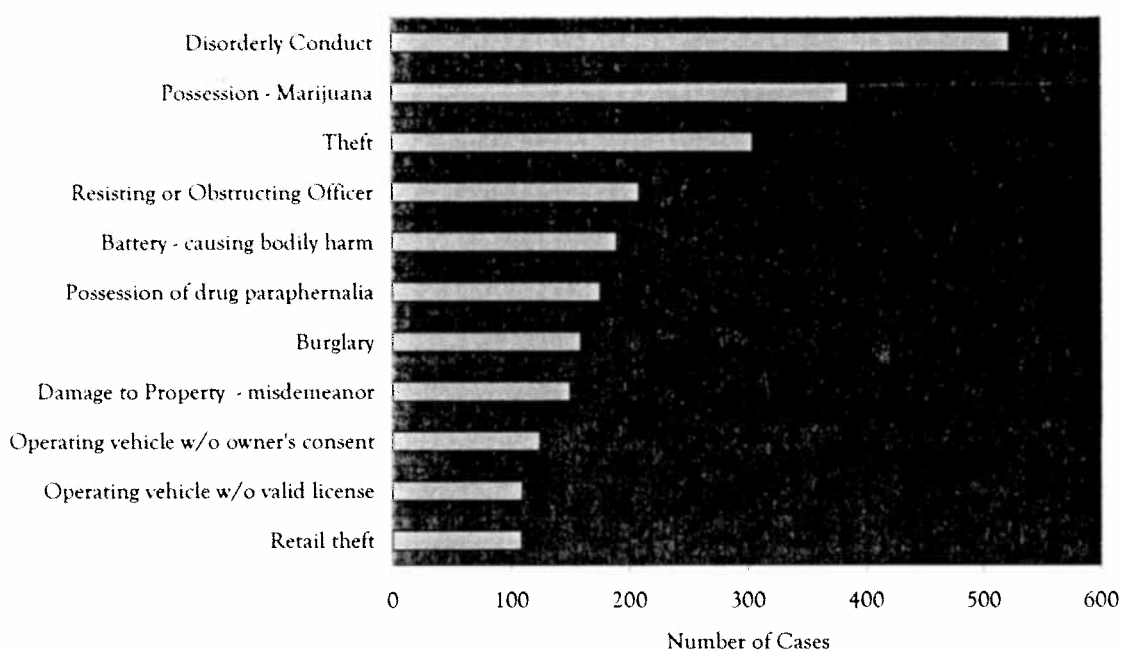
Date: March 8, 2007

Thank you for the opportunity to comment on this important audit proposal. The Wisconsin Council on Children and Families is very interested in the subject of this audit - the effects of criminal court jurisdiction on 17-year-olds - and is supportive of moving this audit forward, as described in the scope report, in a timely fashion. The Council has been actively engaged in trying to return 17-year-olds to the original jurisdiction of the juvenile court for the past several years. Six months ago, the Council joined with the Governor's Juvenile Justice Commission to recommend an audit on the effects of moving 17-year-olds to the original jurisdiction of the adult court. This audit is vitally important for several reasons:

1. Research in other states have shown very poor outcomes for 17-year-olds who are treated as adults. If that finding holds true in Wisconsin, we may be able to avoid some of those outcomes by removing 17-year-olds from adult court jurisdiction.
2. Nationally, Wisconsin is one of only 13 states that treat kids under 18 as adults. Since the change in the law which excluded 17-year-olds from juvenile court jurisdiction, there has been a significant increase in understanding about adolescent brain development. Specifically, science has now confirmed that adolescents are not adults in the way they make decisions.
3. There is significant momentum to return 17-year-olds to the juvenile court. Many groups support returning 17-year-olds to the juvenile court, as long as there is adequate funding to provide them with the services they need. In addition to understanding the current costs (fiscal and societal) of providing services in the adult system, it is vital to understand what it would cost at the state and county level to serve the 17-year-olds.

The vast majority of 17-year-olds who are arrested in Wisconsin are not arrested for the most serious, violent crimes. The three most common crimes 17-year-olds were prosecuted for in 2005 were disorderly conduct, possession of marijuana and theft. The chart below shows the number of ~~arrests~~ *cases going forward* for the most common offenses in 2005.

### Most Common 17-Year-Old Offenses, 2005



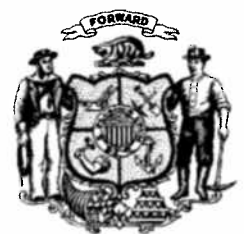
What are the outcomes for these 17-year-olds? It is important to ascertain both the immediate consequences – for example, the consequences of being incarcerated with less educational opportunity than the juvenile system – and then the long term consequences as well. By looking at long term consequences, we may be able to determine some of the impacts of trying 17-year-olds as adults on their educational attainment and their ability to obtain employment in the future. It is important also to look at the disproportionate minority impact of the criminal court jurisdiction on 17-year-olds. Of the 17-year-olds who were sentenced to prison in 2005, 61 percent were youth of color, although youth of color make up only about 10 percent of that age group in Wisconsin.

In the past several months, there has been a substantial effort on the part of several groups to understand what the impact would be of returning 17-year-olds to the juvenile justice system. In the course of this investigation, there has been a sizeable amount of data gathered, by WCCF, by several of the counties, and by the Department of Corrections, which will help move this audit forward in timely fashion.

I am hopeful that the audit committee will approve this audit request. Given the substantial work that has been done in this area, I respectfully request that this audit be allowed to proceed in an expedited manner. The Council would be happy to share research and expertise to move this audit forward. By investigating the relative effectiveness of the juvenile and the adult system, we can have all the information necessary to move forward in treating young offenders in a way that will produce the best outcomes for Wisconsin communities.



WISCONSIN STATE LEGISLATURE





In Reply, Refer to:  
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Testimony to the Joint Legislative Audit Committee

Date: March 8, 2007

Re: Proposed Audit of the Effects of Criminal Court Jurisdiction on 17-Year-Olds

From: Mark Mertens, Co-chair, Children, Youth & Families PAC

On behalf of WCHSA, I wish to thank the Joint Legislative Audit Committee for proposing a study of the effects of criminal court jurisdiction on 17-year-olds. The issue of returning 17-year-olds to juvenile court jurisdiction is one of great interest to many around the state. WCHSA has taken a position of support of such a legislative change as a reflection of best practice in serving youth, but we emphasize that appropriate funding must accompany this jurisdictional change, or it will have the effect of disabling the community-based services for delinquent youth that have been so effective in keeping communities safe and reducing out of home placements.

There seems to be a popular misconception that, when referring to juveniles in the justice system one is talking only about youth supervised by the Department of Juvenile Corrections or youth placed in a Juvenile Correctional Institution, like Lincoln Hills or Ethan Allen School. In 2003, 608 youth were committed to a JCI while 20,842 delinquency and status petitions were filed in county courts throughout the state. The vast majority of these youth were served exclusively by county juvenile justice staff. Many were provided with extensive community-based services or placements funded through county tax levy to address substance abuse issues, provide supervision, family therapy, wraparound services, restorative justice services, and a host of other services to rehabilitate youth. When adequately provided and funded, these services work to enable youth to develop competencies and receive treatment to abate further delinquent actions.

In conjunction with the study of the social impact of this issue, it is imperative that the Committee considers the fiscal impact on counties, specifically as it relates to our work force and the purchase of services (both out-of-home placements and community-based services) for youth. Thank you.

*"The unexpected always happens" – Garrison Keillor*

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