

THE IMPLICATIONS OF TRYING YOUTHFUL OFFENDERS AS ADULTS: A CALL FOR  
ACTION TO RETURN 17-YEAR-OLDS TO ORIGINAL JUVENILE COURT  
JURISDICTION IN WISCONSIN

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Under the Supervision of Dr. Sabina Burton

**Abstract**

A national increase in crime between 1985 and 1994 fueled a national wave of “get tough” on crime measures. As a result, in 1996 all 17-year-old offenders in Wisconsin were statutorily removed from original juvenile court jurisdiction and mandated to be prosecuted and sentenced as adults for the commission of crimes. A review of secondary data revealed that evolving research on adolescent brain development illustrates that crucial decision-making areas of the brain continue to develop well into young adulthood. The diminished culpability of youthful offenders has been recognized by the U.S. Supreme Court in both *Roper v. Simmons* (2005) and *Miller v. Alabama* (2012), and has caused many agencies to advocate for the return of 17-year-olds to juvenile court where they are more likely to receive developmentally appropriate services that have shown to result in lower recidivism rates and greater community safety.

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## INTRODUCTION

### **Statement of the Problem**

A national spike in crime between 1985 and 1994, coupled with media capitalization on select violent juvenile crimes, fueled public perceptions that serious youthful offenders were out of control. At the same time, the “professionalism” of juvenile delinquency began to produce new challenges for the juvenile justice system as youthful drug-related and gang-affiliated activity increased. By the twenty-first century, the issue of youth violence was at the top of every state’s agenda. Most states, including Wisconsin, enacted “get tough on crime” policies that resulted in more punitive waiver, transfer, and court jurisdiction laws (Schmallegger, 2009a). Coinciding with these changes, in 1996 all 17-year-old offenders in Wisconsin were statutorily removed from original juvenile court jurisdiction and mandated to be prosecuted and sentenced as adults for the commission of crimes under Wisconsin Act 27 (Wisconsin Council on Children and Families [WCCF], 2006; Wisconsin Legislative Audit Bureau, 2008).

At the time the Wisconsin Juvenile Justice Code was revised in 1996, many believed that “adult crime, adult time” was a more effective way to punish and deter serious juvenile offenders. As a result of these reactive measures, many inexperienced and non-violent youthful offenders have been processed in the adult court system and suffer the long-term social consequences of a public criminal record. According to the Wisconsin Legislative Audit Bureau (2008), between 2002 and 2006 32,638 17-year-olds were charged with criminal offenses and of this total 585 were sentenced to prison while 10,632 were placed on probation. A review of circuit court data illustrated that 29.8% of cases filed involving 17-year-old offenders were for charges related to property crimes with an estimated two-thirds of cases in 2006 listing the most

serious charge as a misdemeanor (Wisconsin Legislative Audit Bureau, 2008).

Despite popular belief, national violent crime rates for juveniles have steadily declined since they hit a historic high in the mid-1990s. According to Puzzanchera and Adams (2011), data from the FBI's Uniform Crime Report show that between 1994 and 2009 the arrest rate for violent juvenile crimes has decreased by almost 50%. Furthermore, the juvenile arrest rates for almost all offense categories by sex and race continued to decrease in 2009 (Puzzanchera & Adams, 2011). Although the arrest rates of violent juvenile crimes have consistently decreased since 1994 (Puzzanchera, 2009), statutes concerning the treatment of juveniles as adults in the Wisconsin court system have not been reevaluated in recent decades.

Since the Wisconsin Juvenile Justice Code was established in the mid-1990s, evolving research on adolescent brain development has found that the decision-making functions of the brain, particularly those controlling risky and impulsive behavior, do not fully mature until the approximate age of 25 (WCCF, 2006). The diminished culpability of adolescent offenders, coupled with a decade of research examining recidivism rates of juveniles processed in adult courts, has given rise to numerous agencies in Wisconsin now advocating for the return of 17-year-old offenders to juvenile court where they are more likely to receive developmentally appropriate services that result in lower recidivism rates and increased community safety (Pagnanelli, 2007; WCCF, 2006, 2011).

### **Purpose of the Study**

The primary purpose of this research is to advocate for the age of limitation for original juvenile court jurisdiction in Wisconsin to be returned to 17-year of age. Many prior articles and research published on this topic by advocacy agencies have failed to provide an in-depth and



comprehensive proposal that thoroughly discusses the various implications of processing 17-year-olds in the adult system, and how this law in Wisconsin compares to those in other states. Therefore, through the utilization of information on crimes statistics, juvenile delinquency and adult criminal justice system operating dynamics, recidivism rates, brain development, and criminological theories, this project presents a comprehensive research paper that highlights the most significant issues relating to this topic in a clear and concise manner with further recommendations for addressing this issue.

The changes that were made to Chapter 938 of the Juvenile Justice Code in 1996 are still in effect today although crime rates have decreased and evolving research on brain development has emerged. An amending legislation to Chapter 938, titled SB 401/AB746, was introduced to the Wisconsin Legislature in the 2007-08 session and included language that would allow juvenile courts original jurisdiction over 17-year-old offenders (WCCF, 2008a). The legislation failed to pass due to concerns regarding how a shift in financial resources would occur if 17-year-olds were placed back into the juvenile justice system (Boggs, Campbell, Martin, & Wolf, 2008). The issue subsequently faded in light of more pressing economic issues in the political arena. Therefore, a subsequent purpose of this paper is to provide the issue with renewed attention and direction, as well as a resource for those in the public interested in becoming more informed about the ramifications of processing minors as adults in the criminal justice system.

An additional purpose of this research paper is to illustrate why the proposal to raise the age of original juvenile court jurisdiction to 17-years of age warrants recognition within the current economic and political context at both a state and national level as research has shown that the way 17-year-olds are currently processed in the adult criminal system has been largely

ineffective. According to the Wisconsin Legislative Audit Bureau (2008), after a 3-year follow-up period 17-year-olds released from prison had a reincarceration rate of 48.1%, which was significantly higher than the rate for juveniles and other adults. The ability of the juvenile justice system to process 17-year-old offenders in developmentally appropriate ways has been shown to effectively decrease recidivism, which in turn decreases financial burdens placed on communities related to public safety expenses (Pagnanelli, 2007; WCCF, 2011). In recent years, politicians within the State of Wisconsin have been faced with significant decisions regarding ways to help alleviate budget deficits and continue to provide meaningful services to the public. The ability of the juvenile court system to more effectively manage minor offenders in a more cost-effective manner illustrates a need for the Juvenile Justice Code to be reevaluated and presented as a meaningful issue within the current political arena.

### **Significance and Implications of the Study**

The significance of this research resides within its ability to highlight the costs to both the 17-year-old offenders and the public from a system of treating youthful offenders as adults that is failing. According to the WCCF (2011), an estimated 250,000 17-year-olds have been arrested for nonviolent offenses since this age group was removed from juvenile court jurisdiction in 1996. Of this number, approximately 75,000 have been incarcerated in an adult jail with many more faced with the harmful social consequences of having a public criminal record that will permanently affect their ability to obtain employment, housing, and education. The high rate of recidivism for 17-year-olds processed in the adult criminal justice system, coupled with evolving research on adolescent brain development, create a need for the rationale behind treating 17-year-old offenders as adults in Wisconsin to be reevaluated (Boggs et al., 2008).

According to the Wisconsin Legislative Fiscal Bureau (2007-2009), by 2005 the State of Wisconsin was spending approximately \$1.03 billion annually on juvenile and adult corrections, with state correctional expenditures increasing to the 14<sup>th</sup> highest in the nation and juvenile arrest rates decreasing slower than the national average (as cited in Boggs et al., 2008). The significantly higher rate of recidivism for 17-year-olds indicates that the adult correctional system has been largely ineffective at rehabilitating offenders within this age group. The Wisconsin Legislative Audit Bureau (2008) reviewed sentencing data for felony cases filed for 17-year-olds between 2002 and 2006 and found that many of these offenders had treatment needs although opportunities to participate in rehabilitation programs were minimal or not readily available in the adult correctional system. The WCCF (2011) states that research has shown that the juvenile justice system is more capable of meeting the rehabilitative needs of youthful offenders through more cost-effective intervention services that are more successful at promoting and restoring long-term community safety.

### **Methods of Approach**

A secondary data analysis of the research and statistics relevant to the topic presented was conducted for this project. Data information specific to the laws and legal decisions regarding the age of limitation of juvenile and court jurisdictions, the operating philosophies of juvenile and adult correctional systems, and court decisions addressing the criminal culpability of minor offenders was obtained from legal sources to include statutes, court rulings, and case laws. Further research information and statistics were obtained from advocacy agencies such as the Wisconsin Council on Children and Families and government agencies to include the National Center for Juvenile Justice, the Office of Juvenile Justice and Delinquency Prevention,

the Wisconsin Department of Corrections, and the Wisconsin Legislative Audit Bureau. Other literature and research was further obtained from scholarly and peer-reviewed academic journals, theorists, and educators that have published credible work relating to the arguments of this paper.

The secondary research obtained from the various types of resources outlined above were subsequently reviewed, analyzed, and utilized to support the proposed argument of this project to return 17-year-old offenders to original juvenile court jurisdiction. These resources were further used to illustrate that the juvenile justice system is more effectively able to manage youthful offenders in more cost-effective and developmentally appropriate ways that lower recidivism. In addition, these informational resources were used to discuss the historical background, present status, and proposals for future changes of the age of limitation of juvenile court jurisdiction in Wisconsin. Data from Wisconsin regarding the age of limitation of juvenile court jurisdiction was also compared to other states in order to place Wisconsin within a national context of this issue.

## LITERATURE REVIEW

### **The Establishment of Wisconsin Juvenile Court Jurisdictions**

Two years following the establishment of the nation's first juvenile court, in 1901 Wisconsin began to operate its own juvenile court system. Preceding the development of the first juvenile court, all persons charged with crimes were handled in a similar manner through criminal court. The creation of a separate court system to process youthful offenders was based on the belief that children should be treated differently than adults and should not suffer long-term repercussions from youthful crimes (WCCF, 2006). This philosophy underwent a drastic change during the mid-1990s in response to a nationwide spike in juvenile and adult violent crime. The policy response became "a get tough on crime" approach that endorsed a new adult crime, adult time philosophy for processing juveniles in the criminal court system. Coinciding with a national trend, in 1995 the Wisconsin Legislature revised and altered its juvenile justice code. Provisions used to address juvenile delinquency were removed from the Children's Code and new laws were established under the Juvenile Justice Code directed at the management of delinquent minors. In 1996 all 17-year-olds in Wisconsin were statutorily removed from the juvenile court system with adult criminal courts also given original jurisdiction for children 10 and older for the commission of certain homicide and battery offenses (WCCF, 2006).

The justification used for lowering the age of juvenile court jurisdiction was based on public concern and the prediction that violent crime would continue to increase. Media coverage of high profile crimes contributed to the perception that the youth population makes up an unusually high proportion of violent offenders and previous rehabilitative court efforts have failed (Pagnanelli, 2007). Although there was a national increase in violent juvenile crime

between 1985 and 1994, the rate of violent juvenile crime arrests has consistently decreased since 1994 (Puzzanchera, 2009). Wisconsin arrest trends for violent juvenile crimes have also been on a steady decline since 1994, even when crimes committed by 17-year-olds are included in the statistics (WCCF, 2006). The drop in juvenile crime rates cannot be explained by a deterrent effect of more severe juvenile crime laws because, as the Supreme Court recognized in *Roper v. Simmons* (2005), effects of retribution and deterrence among juveniles are weak due to their immaturity and diminished culpability. The Court further found that there was no proof that more severe punishments, such as the death penalty, assisted in deterring violent juvenile offenders (Pagnanelli, 2007).

Although violent juvenile crime rates on both state and national levels have steadily declined over the past 17 years, no subsequent changes have been made to Wisconsin juvenile court jurisdiction laws. Under current Wisconsin law, all 17-year-olds are treated as adults only for the purpose of criminal prosecution and are legally considered minors for all other purposes. According to Wisconsin State Statute 938.02(1), the term “adult” refers to “a person who is 18 years of age or older, except that for the purpose of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil or municipal ordinance, ‘adult’ means a person has attained 17 years of age.” Wisconsin law bases the severity of the punishment on the offense, which ignores the offender’s developmental level (see Appendix A to further reference Wisconsin’s current original adult court jurisdiction and waiver information). Therefore, a youthful offender who cannot developmentally understand and process the long-term consequences of criminal behavior can be treated as an adult for the commission of a crime.

Each state determines the minimum age at which a juvenile can be tried in adult court and

under what circumstances (Grana, Ollenburger, & Nicholas, 2002). On a national level, Wisconsin is one of only 13 remaining states that limit the age of original juvenile court jurisdiction at 16 years of age or younger. Two of these 13 states maintain an age limit of 15 years of age. The remaining 37 states currently maintain original juvenile court jurisdictions in delinquency matters of crimes committed through 17 years of age (National Center for Juvenile Justice [NCJJ], 2011). As a midwestern state that is typically viewed as progressive in terms of criminal justice movements, Wisconsin continues to reside within the lower percentage of states nationwide that exclude 17 year-olds from original juvenile court jurisdictions (see Appendix B to reference the maximum ages of original juvenile court jurisdictions by state groupings).

Although Wisconsin remains on the lower end of original juvenile court jurisdiction age limits, it ranks high among age categories for juvenile court jurisdiction extension allowances in delinquency cases. Wisconsin is one of four states that may extend juvenile court jurisdiction over youthful offenders until age 24, with only three additional states able to retain juvenile court jurisdiction until the expiration of dispositional orders at higher ages (NCJJ, 2010). Appendix C may be further referenced for additional information regarding juvenile court extension age limits by state groupings.

### **Operating Philosophies and Costs of Juvenile and Adult Correctional Systems**

Since the mid-1900s, the Wisconsin juvenile justice system and adult criminal system have taken increasingly punitive stances on serious crimes. Although both systems share some similarities in respect to common court structures and proceedings, operating philosophies and goals of the juvenile system differ from those of the adult system. For example, Wisconsin State Statute 938.01(2) states the following in regards to the goals of the juvenile justice system:

It is the intent of the legislature to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system which will protect the community, impose accountability and equip juvenile offenders with competencies to live responsibly and productively.

The legislature also declares individualized evaluations of juvenile offenders, responses to their needs for rehabilitative services, and the utilization of the most effective early intervention diversions and dispositional options as equally important purposes of the Juvenile Justice Code. In contrast, the legislative intent of the adult correctional system as outlined in Wisconsin State Statute 301.001 states its purpose is, “to prevent delinquency and crime by an attack on their causes; to provide a just, humane, and efficient program of rehabilitation of offenders...” The legislative intent specific to the Juvenile Justice Code places a greater emphasis on assessing for and treating the needs of offenders than does that of the adult correctional code. Schmallegger (2009a) further states that juvenile court philosophies differ from adult systems in that they place less importance upon the determination of guilt and punishment and focus more upon meeting the special needs of youth.

The financial costs of operating juvenile corrections is approximately three times greater than adult corrections due to the volume of services provided in agreement with its mission. According to the Wisconsin Department of Corrections (2011), treatment programs and services provided at juvenile correctional institutions include individualized case management, cognitive intervention, victim impact, trauma, alcohol and other drug abuse (AODA), anger management, and parenting groups, mental health services, individual and family counseling, sex offender programming, mentoring programs and peer activities, and educational, vocational, and



independent living services. In comparison, the Wisconsin Department of Corrections (2012) lists available treatment programs and services provided at adult correctional institutions as consisting of basic education, AODA, cognitive intervention, and work release counseling. Furthermore, higher staffing patterns at juvenile correctional institutions allow for more therapeutic interventions and include mandatory programming, such as school, as well as ongoing personalized therapy regimens that are interwoven throughout the day. As an example, social workers in one Wisconsin adult medium security prison were found to carry an estimated caseload of 225 inmates, while treatment providers in the juvenile system tend to carry much lower caseloads of approximately 12 to 20 (WCCF, 2006). According to Kupchik (2007), of a population of youth all tried in adult criminal court in a Northeastern state, those placed in juvenile facilities reported more meaningful interactions with staff than those in adult facilities.

Much of the programming, if available, in adult institutions is attained through waitlists or reserved for those transitioning out of the institution (WCCF, 2006). According to the Wisconsin Legislative Audit Bureau (2008), 20 out of a sample of 37 17-year-olds admitted to prison in 2002 were found to have moderate to serious alcohol and drug abuse issues however there were waitlists for AODA and other treatment services. Among five sample counties in Wisconsin (Brown, LaCrosse, Lincoln, Milwaukee, and Rock), the number of daily educational service hours provided to 17-year-olds in jail in 2006 was less than the five hours per day that would have been typical in a juvenile facility (WCCF, 2008b). Bishop and Frazier (2000) found that among a series of correctional institutions examined, juvenile facilities provided more treatment services, were more rehabilitative-oriented, and more reintegrative with services than adult facilities. Adult institutions are not designed to compete with the quality of programming

offered to a juvenile offender through the juvenile system. Although the operating costs are higher, research has shown that these expenditures ultimately save costs through lower recidivism rates. For example, a study conducted by the Mendota Juvenile Treatment Center found that every dollar spent on intensive treatment for serious juvenile offenders saved \$7.18 in recidivism costs to the community (Caldwell, 2006).

### **Cognitive Development in Adolescence**

Since 17-year-olds were statutorily removed from Wisconsin's juvenile court jurisdiction in 1996, cognitive research highlighting the development differences between adolescents and adults has substantially evolved. Lifecourse offending patterns tend to illustrate that significant increases in criminal behavior often occur between the ages of adolescence and young adulthood. According to Moffitt (1994), research through the University of Wisconsin found that only 3-6% of the male population can be characterized as chronic offenders. Approximately 20-25% of the male population will be arrested between ages 15 and 18; although, more than three-fourths of adolescents who commit violent crimes will mature out of these behaviors by age 21. Moffitt also notes that adults over 20 years old are responsible for the commission of more than 80% of violent crimes. The vast majority of juvenile arrests are for non-violent crimes such as disorderly conduct, status crimes, and drug possession (WCCF, 2006).

The juvenile court system is based on the premise that children do not have a sufficiently formed conscience to be able to adequately distinguish right from wrong. Children and adolescents, although often capable of committing wrongful behavior, may not have the cognitive ability to thoroughly and thoughtfully process the full extent of their wrongdoing (Grana et al., 2002). Over the past two decades scientists have begun to unravel a distinct stage

of brain development that begins in early adolescence and continues through young adulthood. Evolving technological research using magnetic resonance imaging has found that the brain continues to mature well into the early 20s (Giedd, 2004). Those changes in the brain that transpire on an age-graded developmental timeline in the dorsolateral prefrontal cortex are among the most significant. This part of the brain has been linked to the abilities to control impulsive behavior and exercise good judgment in risky situations. Research has shown that adolescents are more likely to engage in risk-taking behaviors and have less capacity for understanding the long-term consequences of such behaviors than adults. As adolescents mature, so do the neural connections and cognitive processing functions in their brains that allow for behavior to be regulated more appropriately (WCCF, 2006).

Due to the considerable growth and reorganization that occurs in the brain during adolescence, youth become more vulnerable to external environmental influences. Decision-making skills are one of the last brain functions to fully mature in the early 20s; therefore, youth are highly susceptible to exercising poor judgment especially in situations where emotional intensity is high. Although a youth may know the difference between right or wrong, the situational context of the environment often has a greater impact on their behavior. Adolescents are more likely to engage in high-risk behaviors in the company of peers and the ability to control behaviors in emotionally charged situations does not develop until later adolescence (WCCF, 2006).

The onset of puberty in adolescence also contributes to brain developments that strongly influence emotional aspects of cognitive functioning. According to Dahl (2001), changes in adolescent brain development that are specific to puberty have significant effects on motivation

and emotion. These changes often become apparent through alterations in temperament and attitude, increases in conflict with parents, greater propensities for risky and deviant behavior, and gravitation towards experiences that offer excitement. The increases in heightened emotional intensity that begin at the onset of puberty precede cognitive development in the frontal cortex area of the brain that permit reasoned judgment to have more control over emotions in decision-making processes (WCCF, 2006).

Through new and advanced research on adolescent brain development, behaviors considered characteristic of adolescents, such as impulsiveness and risk-taking, can now be explained by a lack of development in the brain that allows adults to minimize such behaviors. In *Roper v. Simmons* (2005), the Supreme Court recognized that youthful offenders maintain a lack of maturity and a developing sense of responsibility that comprise a transitory personality capable of being reformed. Most states prohibit those under 18 from voting, purchasing cigarettes and alcohol, serving on juries, or marrying without parental consent in recognition of the immaturity and irresponsibility often displayed by minors. The behavioral characteristics of adolescence that make teens more likely to be arrested are found to be part of a developmental stage rather than an adult type of criminality. The majority of adolescents who commit crimes will age out of offending behavior by young adulthood as the decision-making functions of their brains mature (WCCF, 2006). According to Ezell (2007), criminal history factors in adulthood, such as arrest-free periods and arrest rates, were significantly more predictive of subsequent criminal offending later in life than prior juvenile offenses. With the appropriate support system, most adolescents are capable of successfully navigating the trials and tribulations of their teen years.

## THEORETICAL FRAMEWORK

### **Social Learning Theory**

As youthful offenders are processed as adults in the criminal justice system, it becomes evident that a significant number of these youth, to include 17-year-old offenders, will be placed in adult jails, prisons, and community supervision facilities. Carey (2010) cautions that mixing inexperienced or low-risk juvenile offenders with adult criminal populations can produce a “contamination” effect on youth. According to Redding (2008), juveniles placed in adult prison reported that a substantial amount of their time was spent learning criminal mores as a means of filling time, establishing a place within the inmate status hierarchy, and to prevent from being victimized. This social phenomenon, which demonstrates that individuals will model their behavior after others they interact with and receive reinforcement from, has been described through theories of social learning (Schmallegger, 2009b).

Sutherland and Cressey (1960), in their theory of differential association, have highlighted the relationship between associations with deviant others and criminal behavior. They posit that criminal behavior is learned through interactions with others, especially intimate persons such as family and friends. Through these interactions techniques and “definitions,” to include motives, drives, rationalizations, and attitudes, both favorable and unfavorable to committing crime are learned. Sutherland and Cressey further contend that exposure to definitions conducive to crime early in life, on a frequent basis, over a lengthy period of time, and from liked sources are most likely to lead to crime. Therefore, criminal behavior becomes the result of a greater proportion of definitions favorable to crime as compared to those unfavorable to violation of the law. They also argue that social disorganization factors such as

class, race, and broken homes influence crime as they affect the probability that individuals will associate with others who maintain definitions favorable to deviant behavior.

Sykes and Matza (1957) agree with the theory of differential association in that criminal behavior is learned and reinforced through associations with deviant others. Sykes and Matza further contend that this behavior is displayed through definitions, including motives, drives, rationalizations, and attitudes, conducive to crime; however, they argue that delinquents' approval of crime is often situational rather than absolute. They posit that the majority of delinquents generally disapprove of crime, and utilize "techniques of neutralization" to justify and excuse their individual criminal actions. A youthful offender's placement amongst experienced criminals in adult institutions creates the ideal environment for learning behaviors conducive to crime and the belief system to justify such actions.

By drawing from behavioral and psychological social learning theories, Akers (1998) expands on the differential association theory by describing the methods by which people learn behavior conducive to crime. According to Akers, criminal behavior is learned through three general processes. First, consistent with Sykes and Matza's (1957) techniques of neutralization, Akers contends that individuals learn beliefs that view crime as attractive and justifiable in certain situations. Secondly, people engage in crime as they are differentially reinforced for deviant behavior or rather encouraged or discouraged for certain actions; and third, individuals model criminal behavior as imitation of others they value. The exposure to deviant associations and models, definitions favorable to crime, and reinforcements for criminal behavior varies not only by the social environment, but it is also affected by an individual's position within it.

Theories of social learning play a significant role in understanding the consequences of

placing 17-year-olds in the adult criminal justice system. As stated by Schmalleger (2009b), correctional institutions can serve as “schools of crime” where offenders of all skill levels are mixed and able to come in contact with one another. Conversations in these environments often focus on crime and criminal mores are passed along from more skilled inmates to those less experienced. Youth who are incarcerated with adult criminals are at a greater risk for learning social rules and norms that encourage the mistreatment and manipulation of others (Pagnanelli, 2007). According to Nellis and King (2009), housing youthful offenders with adults has presented many issues as the populations are often allowed to intermingle. Juveniles are often exposed to violent events that occur in the adult prison system and are more likely to be victims of sexual assault than youth placed in juvenile correctional institutions. Although youth under 18 comprised only an estimated 1% of the jail population, the Bureau of Justice Statistics found for 2005 this population represented 21% of sexual assault victims in jails. Juveniles were also found to be more likely to be physically assaulted by correctional staff in adult facilities than in juvenile detentions. Instead of receiving developmentally appropriate rehabilitative services, adult correctional institutions provide vulnerable youth with more opportunities to learn, experience, and reinforce criminogenic behaviors that will increase the propensity for recidivism when released back into the community.

### **Labeling Theory**

One of the most significant concerns with the adultification of juvenile crimes is that youthful offenders processed in the criminal justice system will have to suffer the long-lasting consequences of having a public criminal record and being formally labeled a “criminal.” According to Schmalleger (2009b), the labeling theory recognizes that an adult criminal record

can have negative ramifications upon opportunities to succeed due to the stigma society places upon a person identified as a criminal. Such classifying can cause individuals to feel less valued as a person and adopt the label as their “master status” or primary identity as other aspects of their behavior become less recognized. Schmallegger further states that labeling can produce an altering effect on the self-concept which can lead a person to believe they are a criminal and thus adapt their behavior accordingly to believe, conform, or rebel against those labeling.

According to Cullen and Agnew (2006), the labeling theory contends that the criminal justice system plays a primary role in stabilizing criminal behavior. Although societal reactions are not considered a primary source of persistent criminal behavior, the negative impacts of incarceration and labeling on an offender can assist in reinforcing a deviant lifestyle while also limiting opportunities to desist from crime. Contemporary revisions of the labeling theory have suggested that it may be premature to disregard the impacts of societal reactions on criminal behavior as several noteworthy longitudinal studies have found that formal processing by the criminal justice system contributes to rates of recidivism (Cullen & Agnew, 2006).

Lemert (1952), in his work on primary and secondary deviance, contended that societal reactions to deviance create an interactionist cycle of offending and negative stigmatization. According to Lemert, primary deviance may occur for a variety of individual and situational reasons although such acts are still often rationalized within the operation of socially acceptable roles. However, deviant acts that become repetitive and highly visible tend to elicit strong societal reactions which increase the probability of an offender merging a new criminal label with their personal identity as their existing societal role becomes disrupted (Lemert, 1952). Lemert contends that social responses to deviance, to include stigmatization, punishment,



segregation, and control, lead a person to accept their deviant status and make choices that are both constrained and reaffirmed by the social consequences of this label. Secondary deviance subsequently occurs as a person's wayward conduct becomes a means of defense, attack, or adjustment to the consequential problems created by societal reactions to deviant behavior (Lemert, 1952).

Braithwaite (1989) further specified how both formal and informal societal reactions contribute to criminality through his theoretical model of reintegrative shaming. He argued that stigmatizing shame increases crime as the offender becomes isolated from conventional bonding relationships and subsequently gravitates towards deviant subcultures which reinforce deviant behavior. In contrast, reintegrative shaming lowers crime through a restorative process by which the shame is followed by efforts to reinforce and strengthen the prosocial relationships of the offender in the community (Braithwaite, 1989). The juvenile justice system is designed to place a greater emphasis on strengthening relationships with the family and in the community which becomes significant when considering how to most appropriately address the behavior of youthful offenders.

Sherman (1993) further contended that legal sanctions would either produce defiance, deterrence, or no effect on future criminality. He posited that defiance and recidivism are most likely to occur when the offender has weak bonds to conventional society and perceives the punishment as stigmatizing and unjust. Defiance, therefore, becomes the outcome of a complex interaction between how sanctions are delivered and interpreted by the offender (Sherman, 1993). Such revisionist approaches on the labeling theory, as outlined by Braithwaite (1989) and Sherman, have important policy implications regarding the effects of legal sanctions on criminal

behavior. Their work further lends support to a restorative approach to crime by highlighting the importance of reintegrating the offender back into the community through the development of positive social bonds.

Currently all 17-year-old offenders in Wisconsin, regardless of the severity of the crime, are subjected to the lifelong consequences of being labeled a criminal and having a public court record. In the State of Wisconsin, any criminal offenses committed by a person age 17 and older are docketed on the Wisconsin Circuit Court Access website with the court case information available for view by the public. Many people, to include school staff, landlords, and potential employers, utilize the Circuit Court website routinely to obtain criminal and other legal information on individuals they may be deciding to provide services to. Such labeling can cause trust issues and harm relationships with friends, family, and other members of the community. For example, Pager (2007) found that males with an adult criminal record were 25-33% less likely to be thought appropriate for a job than those without a criminal record (as cited in Schmallegger, 2009b). Criminal convictions, especially for felony offenses, can impede ability to obtain employment, a driver's license, housing, and federal financial aid for college (WCCF, 2006). Redding (2008) further states that the negative stigmatization of labeling a youthful offender as a convicted felon has been identified as a contributing factor in higher rates of recidivism among violent juvenile offenders processed as adults in the justice system. Through outlining the negative effects of social stigmatization, the labeling theory lends support to the claim that formally labeling a youthful offender as a criminal is bad practice as it fails to positively contribute to a developing adolescents' ability to be accepted and successful in the community.

## SECONDARY DATA ANALYSIS

### **Crime Rates**

As crime rates began to rise in the 1980s, get tough on crime policies became the nationwide response to the prediction that crime would continue to increase in both seriousness and sheer volume of offenses. However, since crime rates peaked in 1994 they have been on a steady decline in Wisconsin and across the nation as a whole proving this assumption to be erroneous. The number of juvenile arrests in Wisconsin has fallen by 42% since 2000 with the rate of juvenile arrests per 1,000 youths decreasing from 90.9 in 2000 to 57 in 2010. From 2006 to 2010 alone the number of juveniles arrested had decreased by 29% for property offenses, 19.5% for drug offenses, 17.5% for violent offenses, and 34% for other offenses (WCCF, 2011). These decreases in juvenile crime are unlikely to be largely attributed to the enactment of more severe crime laws as stated by the U.S. Supreme Court in *Roper v. Simmons*, juveniles commonly lack the cognitive maturity and capacity to appropriately analyze the possible consequences of more stringent punishments (WCCF, 2006).

According to the Wisconsin Office of Justice Assistance (2011), upon examination of juvenile arrests in the state between 2009 and 2010, it was noted that juvenile arrests had decreased by an overall 15%. It is important to note that in this report, a “juvenile” is defined as a person under the age of 18. When comparing the number of arrests between juveniles and adults, juveniles were found to have comprised 18% of total arrests in Wisconsin in 2010 while adults comprised the remaining 82%. Of these juvenile arrests, 42% of them were for society crimes which include curfew and liquor offenses, 20% for property crimes, 5% for drug crimes, 2% for violent crimes, and 31% for other crimes. As can be observed, the majority of youthful

arrests were made for non-violent offenses. The report also noted that an increase in arrests was found to occur in the adolescent years and did not begin to decline until age 24 regardless of race and type of arrest. Between 2009 and 2010 juvenile arrests decreased 20% for property offenses, 15% for society offenses, 2% for violent offenses, 2% for drug offenses, and 16% for other offenses. Of the juvenile arrests made, 17-year-old offenders accounted for 41% of drug offense arrests, 29% of violent offense arrests, 27% of society offense arrests, 25% of property offense arrests, and 31% for other offense arrests (Wisconsin Office of Justice Assistance, 2011).

Arrest rates for juveniles in Wisconsin have coincided with those on a national level in that they have continued to decline since they hit a historic high in 1994. According to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), as of 2009 violent crime arrest rates for juveniles have decreased by almost 50% since 1994 to a level that has not been seen since 1980. With data obtained from the FBI's Uniform Crime Report (UCR), the OJJDP reports that the total number of juvenile arrests had declined in almost every offense category for all sexes and races in 2009. When comparing percentage changes in total numbers of arrests for juveniles and adults it also becomes clear that juvenile crime has decreased at a greater pace than adult crime. Between 2000 and 2009, violent index crimes, consisting of murder, forcible rape, robbery and aggravated assault, had decreased by 13% for juveniles while only 6% for adults. During this same time span, property index crimes, consisting of burglary, larceny-theft, simple assault, and arson, decreased 19% for juveniles and increased 19% for adults. Arrest rates during this time period for weapons offenses declined 7% for juveniles and increased 8% for adults while arrest rates for drug abuse offenses declined 14% for juveniles and increased 8% for adults. For the purposes of collecting and reporting this data, the UCR defines a juvenile as a

person being under the age of 18 (Puzzanchera & Adams, 2011).

When compared to other states across the nation, Wisconsin has been considered to have moderately low crime rates. According to Boggs et al. (2008), the number of reported index crimes for Wisconsin in 2005 was lower than the majority of other states ranking it 44 out of 51 for violent offense arrests in the nation. Wisconsin's history of maintaining low crime rates has been found to be consistent with overall crime patterns in the Midwest. Although Wisconsin has maintained considerably low crime levels, when compared to decreasing rates across the United States these declines do not appear as favorable. Juvenile arrest rates in Wisconsin have decreased at lower rates when compared to those on a national scale. By 2005 juvenile crime arrests in Wisconsin had dropped by 50% since the peak in 1994 although the national rate had declined by 64%. In 1994 the arrest rate of juveniles in Wisconsin was 2,421 per 100,000 youth as compared to 1,639 per 100,000 in the nation (Boggs et al., 2008). More recent data from the FBI's UCR state that for the year 2009 Wisconsin's Violent Crime Index rate for juvenile arrests was 245 per 100,000 youth, less than the national rate of 274. On the contrary, the Property Crime Index rate for juvenile arrest in Wisconsin was 2,429 per 100,000, which was significantly higher than the national rate of 1,336 (Puzzanchera & Adams, 2011). Although crime generally appears to be on a downward trend, clearly there is still much progress to be made in the area of effectively addressing the volume of offending impacting communities.

### **The Volume of Juveniles Serving Time in Wisconsin's Adult Institutions**

As a consequence of placing all 17-year-old offenders under original criminal court jurisdiction, a number of these youth will end up serving time in adult institutions. The WCCF (2011) reports that since 1996, an estimated 250,000 17-year-olds have been arrested in

Wisconsin for non-violent crimes which has resulted in approximately 75,000 of these youth being incarcerated in an adult jail. According to the Wisconsin Legislative Audit Bureau (2008), between 2002 and 2006 a total of 32,638 criminal court cases were filed against 17-year-olds. Of these cases, approximately 30% were for property crimes, 17% for public order crimes, 17% for drug crimes, 15% for crimes against persons, 10% for traffic crimes, and 11% for other crimes. For cases filed in 2006, about two-thirds were concerning misdemeanor offenses. As a disposition of cases filed during this time span, 585 of the defendants were sent to prison and 10,632 placed on probation. The Legislative Audit Bureau further stated that among five counties they examined, jail bookings for 17-year-olds were most commonly for public order and property offenses.

When placed under the jurisdiction of criminal justice system, 17-year-old offenders become subject to the same types of sentencing dispositions as adults. As stated by Nellis and King (2009), currently life in prison without the possibility of parole is the most severe punishment that can be given to a juvenile that is mandatorily or discretionally transferred out of juvenile court in the United States. Nellis and King further reported that in 2008 there were an estimated 6,807 youth serving life sentences with approximately one fourth of them ineligible for parole. Of this population, Wisconsin was housing 67 juveniles serving life sentences with two additional serving life without parole. Until recently this year, state laws mandated courts in a number of these cases involving juveniles to impose life imprisonment without parole. In *Miller v. Alabama* (2012), the U.S. Supreme Court ruled that mandatory life without parole sentencing for a youth under 18 years of age at the time of their offense constitutes a violation of the Eighth Amendment's ban against "cruel and unusual punishments." Following the precedence of *Roper*

*v. Simmons* (2005) which barred the execution of juveniles, the Court reaffirmed the notion that criteria for judging the culpability and change capacity of youth should be different than those of adults and allow for discretion in rendering appropriate sentencing options.

### **Recidivism Rates**

A number of studies have shown that placing 17-year-old offenders in the adult criminal justice system has produced concerning levels of recidivism that negatively impact both the youth and safety in communities. The WCCF (2008b) examined the recidivism rates of 1,000 17-year-olds convicted in Wisconsin in 2001. By September of 2007, a reported 70% of this population had reoffended with approximately half convicted of multiple crimes. New charges for recidivists were similarly divided between misdemeanor and felony offenses. For these youth convicted in 2001, the most common disposition resulted in a jail sentence, with more than half of the youth serving jail or prison time even though 78% of these cases involved misdemeanor offenses. After jail sentences, probation, fines, prison, and deferred prosecution were utilized as dispositional outcomes in sequential order of most to least commonly used. The type of sentencing outcome used was significant as recidivism rates for this population were found to be contingent upon the punishment. Those given jail time produced the highest rate of recidivism at 80% while those sent to deferred prosecution generated the lowest rate at 37% (WCCF, 2008b).

In a report released in 2008, the Wisconsin Legislative Audit Bureau outlined findings of a study in which Wisconsin Department of Corrections data was used to examine how the recidivism rates of 17-year-olds compared to younger juveniles in the juvenile justice system and older adults also in the adult correctional system. The results of this study found that for the 17-

year-olds released from prison in 2002, approximately half, or 48.1%, had returned to incarceration within a three year follow-up period. In comparison, other juveniles retained in the juvenile system produced a reincarceration rate of 26.6% over a longer four-year span while older adults in the adult correctional system had a reincarceration rate of 21.3% over the same three-year period. Furthermore, less than half of 17-year-olds sent to probation between 2002 and 2006 were successful in completing the community supervision program (Wisconsin Legislative Audit Bureau, 2008).

Other studies throughout the past decade in other states have also found that youth processed as adults in the criminal justice system are more likely to reoffend than those retained within the juvenile justice system. Through OJJDP sponsored research, Lanza-Kaduce, Lane, Bishop, and Frazier (2005) expanded on the work of previous studies in Florida and examined the recidivism rates of youth who were transferred to criminal court in comparison to those who were retained in juvenile court. A total of 950 youth were taken from six rural and urban circuit court jurisdictions in Florida in order to evaluate reoffending patterns for the sample population after they turned age 18. Half of the youth followed had been transferred to criminal court jurisdiction while the other half remained under juvenile court authority for offenses committed between 1995 and 1996. All youth were paired and matched by demographics to include age, sex, type of offense, race, number and seriousness of prior offenses, as well as other crime characteristics considered predictive of recidivism such as weapon involvement, injuries, damage to property, and gang affiliation. Those transferred to the adult system had significantly higher rates of recidivism than those retained. Juveniles handled in adult court produced recidivism rates of 25% for violent offenses, 11% for drug offenses, and 14% for property offenses



compared to the respective rates of 16%, 9%, and 10% in these offense categories for those who were not transferred. Overall, 49% of those transferred were found to have reoffended as compared to 35% of those retained in the juvenile system (as cited in Redding, 2008).

Fagan, Kupchik, and Liberman (2003), in a prior OJJDP funded study, compared the recidivism rates of a total of 2,382 15 and 16 year-old youth who had been charged with assault, burglary, or robbery offenses between 1992 and 1993. The sample population was comprised of youth from similarly matched counties in the states of New Jersey and New York. Whereas these cases originated under juvenile court jurisdiction in New Jersey, they began in the adult criminal courts in New York. Significant variables such as prior offense records, case characteristics, sentence durations, and demographics to include age, gender, and ethnicity, were controlled for in the research. The follow-up examination period spanned seven years until 2000 to allow the majority of participants to have spent approximately two years residing back in the community. The results found that those processed in the New York adult courts were 100% more likely to commit a subsequent violent offense and were 47% more likely to commit a property crime. The New York sample population was also found to have a higher number of new arrests for similar offenses and were 26% more likely to be reincarcerated. The results of this study, in addition to those previously described, illustrate that placing 17-year-olds in the adult criminal court system has been largely ineffective to the extent that it may also contribute to an increase in the recidivism rates of youthful offenders (as cited in Redding, 2008).

## SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

### **Proposals to Change Juvenile Court Jurisdiction in Wisconsin**

The changes that were made to Chapter 938 of the Wisconsin Juvenile Justice Code in 1996 are still in effect today, mandating all 17-year-olds be treated as adults in the criminal justice system regardless of the severity of the offense (WCCF, 2008a). An amending legislation, titled SB 401/AB 746, was introduced to the 2007-2008 Wisconsin Legislature session and included language that would return all 17-year-olds to original juvenile court jurisdiction. Under SB 401/AB 746, other statutes of the Juvenile Justice Code regarding waivers and mandatory adult court jurisdiction for certain violent offenses would remain intact; thus, not altering the statutes aimed at handling violent juvenile offenders (Governor's Juvenile Justice Commission, 2008). The intent of this legislation was to allow 17-year-olds who have not had much experience with the court system and who have been charged with reasonably minor offenses to be prosecuted within the juvenile court system (WCCF, 2008a).

Although it succeeded in becoming a focal point of considerable interest in child welfare and criminal justice agencies, legislation SB 401/AB 746 did not pass. According to the Governor's Juvenile Justice Commission (2008), the legislation failed to include a proposal for how additional staffing and service changes would be made to the juvenile justice system in order to accommodate the return of 17-year-old offenders. Such changes would further require a fiscal plan to specify the amount of financial resources that would need to be shifted or added to the juvenile court budget to serve this population. The Wisconsin Legislative Audit Bureau (2008) has estimated that placing 17-year-old offenders back in the juvenile justice system would cost between \$53.5 and \$82.4 million dollars per year although a portion of this cost would be

obtained by transferring fiscal resources from the adult system. It is recommended that further research be conducted to evaluate the extent of additional resources the juvenile justice system would require, and how these resources could sufficiently be allocated, in order to render it capable of serving the 17-year-old population.

In the State of Wisconsin, the WCCF has been the leading advocacy agency for legislation that would return 17-year-olds to the original jurisdiction of juvenile court while still providing for the adult prosecution of serious, violent juvenile offenders. As stated by WCCF Policy Analyst Wendy Henderson:

The 1996 law requiring that we treat 17-year-olds as adults even for relatively minor, nonviolent offenses was a misguided product of a political climate that emphasized getting tough on crime, with little or no real evidence to support the policy (WCCF, 2008).

The WCCF is only one of numerous organizations advertising their support for returning 17-year-olds to juvenile court in Wisconsin. Among other supportive agencies are Centro Hispano, Fond du Lac District Attorney's Office, National Juvenile Justice Network, State Bar of Wisconsin, Wisconsin Council of Child and Adolescent Psychiatry, Wisconsin County Human Services Association, and Wisconsin State Public Defenders (WCCF, 2008a).

### **Recommendations to Return, Reaffirm, and Reinvest**

In response to the proposed legislation in SB 401/AB 746, the Governor's Juvenile Justice Commission (2008) issued an official report stating that it supported changing the age of original juvenile court jurisdiction in Wisconsin back to 17 years of age. This statement was based on a review of national state-level research that examined the effects of placing 17-year-

olds in the adult criminal justice system on rates of recidivism. The Commission found that the majority of valid research illustrated that the juvenile justice system is more capable of preventing youth from further offending than the adult system. For example, of the thousands of juveniles who completed the First Time Offender program in Milwaukee between 1996 and 2006, approximately 69% were successful in the community without having a subsequent referral back to juvenile court (WCCF, 2006). The ability of the juvenile justice system to more successfully redirect deviant behavior has been largely attributed to a greater number of services offered to youth. The Neighborhood Intervention Program of Dane County has been successful at providing various forms of community supervision that serve as an alternative to placing juveniles in corrections; youth in these programs are assessed for needs, provided with case management services from dedicated staff, and required to participate in prosocial activities (WCCF, 2006). Due to the greater accessibility of rehabilitative services available to youth in the juvenile justice system, it is recommended that 17-year-olds be returned to juvenile court as the inability to attain such services has shown to have a detrimental effect on future community victimization (Governor's Juvenile Justice Commission, 2008).

Although both the juvenile and adult criminal justice systems have taken get tough approaches to crime within the past two decades, the two systems have maintained different philosophies in regards to the management of offenders. According to Mears (2002), the juvenile justice system is not merging with the adult system, as a focus solely on transfer and jurisdiction policies may imply, but it has rather undergone changes in dispositional alternatives to allow for flexibility in blended sentencing and correctional options for violent juvenile offenders. Mears further states that current juvenile justice systems operate to balance a number

of goals to include rehabilitation, restoration, deterrence, incapacitation, sanctioning, and comparative sentencing. As supported by the Wisconsin Governor's Juvenile Justice Commission (2008), it is recommended that the equally important goals of the juvenile justice system to provide accountability, community safety, and competency to both youthful offenders and the public continue to be maintained and reaffirmed.

The juvenile justice system in Wisconsin functions on local, county, and state tiers with the circuit courts in each county providing juvenile court operations. Juvenile detention and non-secure facilities are administered at the county level and overseen by state agencies which also operate the state's juvenile corrections community supervision programs and secure institutions (Boggs et al., 2008). The Wisconsin Juvenile Code continues to reflect the equally important goals of juvenile justice established in the 1980s of providing accountability, endorsing community safety, and increasing the skills and competencies of youth. Over the past decade the juvenile justice system in Wisconsin has adopted more progressive, evidence-based practices that have proven more successful in working with youthful offenders. As a result, two of the three juvenile correctional institutions in the state were recently closed in 2011 (WCCF, 2011). With the collaboration of county and state juvenile justice agencies, the juvenile justice system is capable of holding youthful offenders accountable for their actions, providing them with the ability to learn new skills and competencies to be successful in the community, and if needed, providing secure confinement. It is further recommended that the savings gained from the closure of state juvenile correctional and secure facilities, and lower recidivism rates, be reinvested back into alternative programming in the community that has shown to be more effective at deterring youthful crime.

## Concluding Statements

Since 17-year-olds were statutorily removed from the Wisconsin juvenile justice system in 1996, a volume of new and evolving research has illustrated that this get tough on crime approach has been largely ineffective at rehabilitating youthful offenders and costly to communities. Research has shown that the human brain continues to develop well through the early 20s; and as a result, renders adolescents and young adults with a lesser ability to exercise control, rationalize judgment, and foresee long-term consequences in decision making-processes (Giedd, 2004; WCCF, 2006). In both *Roper v. Simmons* (2005) and *Miller v. Alabama* (2012), the U.S. Supreme Court recognized the diminished culpability and increased amenability to reform of youthful offenders under the age of 18 when the Court ruled minors could neither be executed nor required to be bound to mandatory sentencing guidelines of life without parole.

Placing 17-year-olds within the adult criminal justice system has resulted in a number of long-term consequences to both youthful offenders and communities that have had a significant negative impact on future rates of recidivism. Studies have shown that youth in adult jails and correctional institutions have less access to rehabilitative programs and meaningful staff services (Bishop & Frazier, 2000; Kupchik, 2007; WCCF, 2006, 2008b; Wisconsin Legislative Audit Bureau, 2008). Furthermore, the theory of social learning claims that mixing juveniles with adult offender populations can produce a contamination effect as less experienced and more vulnerable youth become exposed to and pressured into learning the criminal mores of jail and prison populations (Carey, 2010; Redding, 2008; Schmallegger, 2009b). Youthful offenders who enter the criminal justice system in Wisconsin will exit it with a permanent public criminal

record and official label as a “criminal.” The social stigmatization that accompanies this labeling can exclude youth from educational, employment, and housing opportunities that provide substantial barriers to success in the community (Schmallegger, 2009b; WCCF, 2006).

Since 1996 a number of studies have shown that 17-year-olds processed in the adult justice system have higher rates of reoffending than youth handled in the juvenile justice system (Lanza-Kaduce et al., 2005; WCCF, 2008b, Wisconsin Legislative Audit Bureau, 2008). This research illustrates that the adult system has failed to meet the rehabilitative needs of youthful offenders and in doing so, has contributed to higher rates of recidivism in the community. As stated by Pagnanelli (2007), the practice of treating juveniles as adults has proven to be an ineffective method of punishing and deterring youthful offenders and fails to protect the public. Through a collaboration of county and state agencies, the juvenile justice system has shown that it is more capable of managing youthful offenders, even those that require secure confinement, in ways that provide age-appropriate services and more community-based alternatives.

Now that the knowledge base necessary to support returning 17-year-olds back to original juvenile court jurisdiction in Wisconsin has been established, several issues regarding the further direction of advocacy efforts are now raised. The first issue concerns whether or not society will recognize and accept that the retributive practice of treating 17-year-olds as adults has not been effective at deterring youthful offenders from future crime. The failure of the adult system to effectively address youthful offending behavior produces significant costs to the community through the financial burdens placed on crime victims and taxpayers that are associated with higher recidivism rates. Secondly, it has become clear that without a specific plan to outline the allocation of financial resources necessary for the juvenile system to support the 17-year-old

population, further advocacy efforts are not likely to pass. The current state of a struggling economy, at both the state and national level, has presented society with an ideal time to formally advance efforts to return 17-year-olds to juvenile court where they will be more likely to be treated and punished in a more practical, humane, and cost-effective way (WCCF, 2011).



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APPENDIX A

**Mandatory Original Adult Court Jurisdiction in Wisconsin**

Current Law	Crimes
Ages 10 to 16	1 <sup>st</sup> Degree Intentional Homicide, 1 <sup>st</sup> Degree Reckless Homicide, 2 <sup>nd</sup> Degree Intentional Homicide
Ages 10 to 16	Assault or Battery to a Correctional Officer or Inmate
Age 17	Original Adult Court Jurisdiction

**Waiver to Adult Court**

Current Law	Crimes
Ages 14 to 16	Felony Murder, Kidnapping, 2 <sup>nd</sup> Degree Reckless Homicide, 1 <sup>st</sup> or 2 <sup>nd</sup> Degree Sexual Assault, Taking Hostages, Burglary, Robbery with a Dangerous Weapon, Manufacturing or Distributing Controlled Substances, Commission of a Felony at the Request of a Gang
Ages 15 to 16	Violation of any State Criminal Law

Adapted from "Returning 17-Year-Olds to Juvenile Court," by Wisconsin Council on Children and Families, 2008. Retrieved from [http://wccf.org/pdf/return17yo\\_juvcourt\\_supporters\\_rev021408.pdf](http://wccf.org/pdf/return17yo_juvcourt_supporters_rev021408.pdf)

APPENDIX B

**Upper Ages of Original Juvenile Court Jurisdiction by State Groupings**

Oldest Age	States
17	Alaska, Arkansas, Alabama Arizona, California, Colorado, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, North and South Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Washington, West Virginia, Wyoming (37 Total)
16	Connecticut, Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, <b>Wisconsin</b> (11 Total)
15	New York, North Carolina (2 Total)

Adapted from “How Does Age Impact the Way States Handle Juvenile Delinquency Cases?,” by National Center for Juvenile Justice, 2011. Retrieved from [http://www.ncjj.org/pdf/Snapshots/2011/vol16\\_no7\\_How%20does%20age%20impact%20the%20way%20states%20handle%20delinquency%20cases.pdf](http://www.ncjj.org/pdf/Snapshots/2011/vol16_no7_How%20does%20age%20impact%20the%20way%20states%20handle%20delinquency%20cases.pdf)

## APPENDIX C

### Extended Ages of Juvenile Court Jurisdiction in Delinquency Cases

Extended Age	States
18	Alaska, Iowa, Kentucky, Nebraska, Oklahoma, Rhode Island, Tennessee
19	Mississippi
20	Alabama, Arizona, Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Vermont, Washington, West Virginia, Wyoming
21	Florida
22	Kansas
24	California, Montana, Oregon, <b>Wisconsin</b>
Any	Colorado, Hawaii, New Jersey

Adapted from "Delinquency Jurisdiction," by National Center for Juvenile Justice, 2010. Retrieved from <http://www.ncjj.org/Topic/Delinquency-Jurisdiction.aspx>