

A Review

17-Year-Old Offenders in the Adult Criminal Justice System

Department of Corrections

2007-2008 Joint Legislative Audit Committee Members

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Response

From the Department of Corrections



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Janice Mueller
State Auditor

February 1, 2008

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

Dear Senator Sullivan and Representative Jeskewitz:

We have completed a review of 17-year-old offenders in the adult criminal justice system, as requested by the Joint Legislative Audit Committee. Wisconsin is currently 1 of 13 states in which individuals under the age of 18 are treated as adults in the justice system. We reviewed a variety of statistics, including data on arrests, the number and type of criminal charges filed, sentences imposed, prison admissions, probation placements, and recidivism.

From 2002 through 2006, 585 individuals who were 17 at the time of offense were admitted to prison and 10,632 were placed on probation. Of those admitted to prison, 429 participated in at least one educational program, but participation in other types of rehabilitation or treatment programs was much less frequent.

In a review of rates of recidivism and probation revocation among 17-year-olds, we found that fewer than one-half of 17-year-old offenders successfully completed probation, and 17-year-old offenders had higher recidivism rates than either juveniles or older adults.

Legislation currently under consideration would return 17-year-olds to the juvenile system. This change would have a significant effect on counties, which are primarily responsible for operating and funding juvenile corrections services. We estimate the juvenile corrections cost increase could range from \$53.5 million to \$82.4 million annually.

We appreciate the courtesy extended to us by officials and staff of the Department of Corrections and other state and local agencies we contacted during our review. The Department's response follows the appendices.

Respectfully submitted,

A handwritten signature in cursive script that reads "Janice Mueller".

Janice Mueller
State Auditor

JM/KW/ss

Report Highlights ■

Since 1996, 17-year-olds have been subject to adult criminal court jurisdiction.

17-year-olds were most often charged with property crimes, such as theft and burglary.

More than three-quarters of 17-year-olds sentenced in felony cases were placed on probation.

17-year-olds were more likely to re-offend than juveniles or older adults.

Proposals to return 17-year-olds to juvenile court jurisdiction would have significant programmatic and fiscal effects.

Under the provisions of 1995 Wisconsin Act 27, 17-year-olds alleged to have violated criminal law are subject to prosecution as adults, and juveniles under the age of 17 can be tried as adults when they are alleged to have committed certain serious crimes. Before the law's enactment, 17-year-olds were subject to juvenile court jurisdiction. From 2002 through 2006, 32,638 criminal cases were filed against individuals who were 17 at the time of their alleged offense. During this period, 585 individuals admitted to prison and 10,632 placed on probation were 17 when they committed crimes.

Concerns have been raised that the effects of adult jurisdiction over 17-year-olds are not well understood. Therefore, at the request of the Joint Legislative Audit Committee, we analyzed:

- arrests of 17-year-olds, including the offenses for which they were arrested and how arrest rates vary by age;
- the number and types of adult criminal court cases involving defendants who were 17 at the time of their alleged offense and the types and lengths of sentences they received;
- prison admissions and probation placements of 17-year-old offenders, as well as the services and programming available to them through the Department of Corrections (DOC) and in selected county jails;

- rates of recidivism and probation revocation among 17-year-old offenders; and
- possible cost implications for the State and counties of any change in jurisdiction for 17-year-olds.

Arrests

From 2001 through 2005, an average of 29,626 17-year-olds were arrested each year. During this period, 17-year-olds were 1.5 percent of Wisconsin's total population but accounted for 6.7 percent of arrests. Arrest rates for 17-year-olds were similar to those for 16-, 18-, and 19-year-olds. They were significantly higher than those for persons 21 and older.

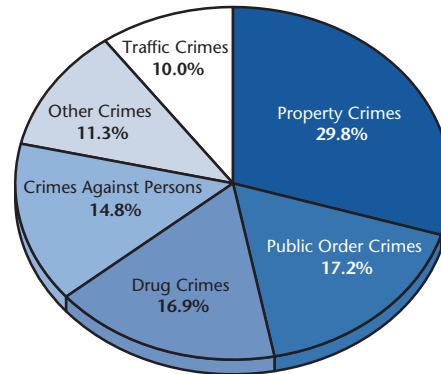
The crimes for which 17-year-olds were arrested varied. Status offenses in which the individual's age is a factor, such as curfew violations or underage drinking, accounted for more than one-quarter of arrests. Crimes against persons, primarily assaults, accounted for 5.0 percent.

Court Proceedings

District attorneys have several options for handling cases after an arrest has been made. They may decline prosecution, refer the case to a deferred prosecution or diversion program, or prosecute the case by filing charges in circuit court.

We reviewed data from 2002 through 2006 for criminal cases filed in circuit court against individuals who were 17 at the time of their alleged offense. During this period, 17-year-olds were most commonly charged with property crimes, such as theft and burglary, which accounted for 29.8 percent of cases filed, as shown in Figure 1.

Figure 1

**Criminal Case Filings Against 17-Year-Olds
2002 through 2006**

In approximately two-thirds of the cases filed against 17-year-olds in 2006, the most serious charge was a misdemeanor. Approximately one-third of cases included felony charges.

We also reviewed Wisconsin Sentencing Commission data on sentencing in cases that were filed as felonies. Seventeen-year-old offenders were generally more likely to be placed on probation and less likely to receive prison sentences than older offenders. The average term of probation for 17-year-old offenders was 2.8 years, and the average prison sentence was 3.6 years. The percentage of 17-year-old offenders sent to prison varied by county, by gender, and by race/ethnicity. For example, 21.3 percent of African-American offenders and 19.4 percent of Hispanic/Latino offenders who were convicted in felony cases were sentenced to prison, compared to 4.2 percent of white offenders.

County Jails

There are no statewide data on the number of 17-year-olds held in jail, but 17-year-olds accounted for a relatively small percentage of all bookings in five counties we visited. 17-year-olds were most often booked into jail for public order offenses, such as disorderly conduct. Property crimes such as theft and criminal damage to property were the second-most-frequent reason for booking.

Most 17-year-olds were jailed for less than one week, but a small number were jailed for one year or more. Educational services were typically provided in the five counties we visited, but rehabilitation programs available to 17-year-olds were minimal.

Adult Correctional System

From 2002 through 2006, 11,217 individuals who were 17 at the time of their offense first entered the adult correctional system. As noted, 10,632 were placed on probation and 585 were admitted to prison. Milwaukee County was the convicting county for 379 of the prison admissions, or 64.8 percent.

Most 17-year-old offenders entering the adult correctional system were convicted of crimes against persons, which are typically violent crimes. Robbery was the most common crime committed by those admitted to prison, while assault and battery were most common among those placed on probation.

Limited information is available on the educational programming and other services available to 17-year-old offenders in the adult correctional system. Of the 585 17-year-old offenders admitted to prison from 2002 through 2006, 429 participated in education programs.

In a detailed file review for a sample of 37 17-year-old offenders who were admitted to prison in 2002, we found that 17 earned high school equivalency diplomas while incarcerated. Among the 37 inmates in our sample, 20 were identified as having moderate or serious alcohol and other drug abuse (AODA) problems. There are waiting lists for AODA and other treatment programs.

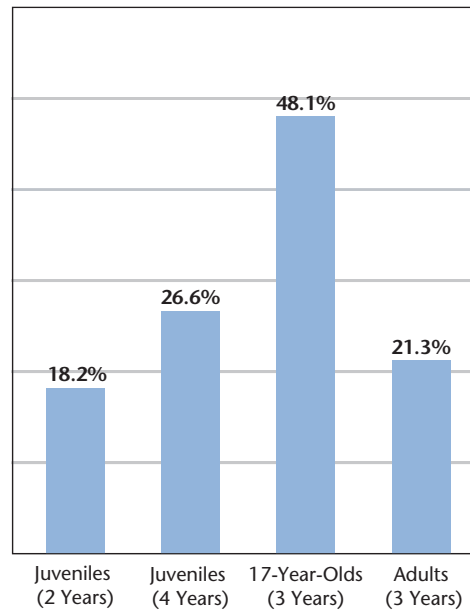
Recidivism

The extent to which 17-year-old offenders successfully complete their sentences and avoid future criminal activity can be measured in several ways. We reviewed revocations of probation, which measure the extent to which terms of probation have been violated. We found that fewer than one-half of the 17-year-old offenders who were placed on probation from 2002 through 2006 completed probation successfully.

We also reviewed recidivism, or subsequent criminal behavior after incarceration. As shown in Figure 2, 17-year-old offenders released from prison had a higher reincarceration rate than either juveniles or older adults.

Figure 2

Reincarceration Rates¹
2002 Releases



¹Rates for juveniles measured at 2-year and 4-year intervals; rates for adults measured at 3-year interval.

For Future Consideration

The Legislature may soon debate changes to the placement of 17-year-olds in the adult criminal justice system. Wisconsin is currently 1 of 13 states that automatically place 17-year-olds in the adult criminal justice system.

If the age of criminal court jurisdiction is returned to 18, which it was before the enactment of 1995 Wisconsin Act 27, 17-year-olds would return to the juvenile justice system, which is primarily operated by counties. The fiscal effect for the counties is likely to be significant. We estimate returning 17-year-olds to the juvenile

system could cost \$53.5 million to \$82.4 million annually. However, increased costs to county-level juvenile corrections could be offset to some extent by cost savings in the adult correctional system.

In deliberating potential changes, several options are available for the Legislature to consider:

- retaining criminal court jurisdiction over 17-year-olds;
- changing the age of criminal court jurisdiction to 18, and thereby returning 17-year-olds to the jurisdiction of the juvenile courts;
- making incremental change, such as retaining criminal court jurisdiction for 17-year-old felony offenders or expanding programs that allow juvenile offenders to remain under supervision for a longer time period; or
- delaying implementation of any change, to allow DOC, the courts, and the counties time to prepare for its programmatic and fiscal effects.

■ ■ ■ ■

Introduction ■

In 1996, Wisconsin statutes were changed to define 17-year-olds as adults for purposes of both investigating and prosecuting violations of the law. As a result, 17-year-olds are currently under the jurisdiction of the adult criminal courts rather than the juvenile courts. Juveniles under the age of 17 may be under criminal court jurisdiction if they commit certain serious crimes or are waived after a hearing held at the request of a prosecutor or judge.

Some legislators and advocates have proposed returning 17-year-olds to juvenile court jurisdiction, citing recent research on brain development indicating that while intellectual abilities are largely mature by the age of 16 or 17, emotional and social maturity—including impulse control and susceptibility to peer influence—continue to develop into the early twenties. They also argue that 17-year-olds prosecuted in criminal court are more likely to recidivate than those prosecuted in juvenile courts.

However, others have argued that moving 17-year-olds to criminal court jurisdiction was a necessary response to increases in juvenile crime. Furthermore, some have expressed concern that not enough is known about 17-year-olds currently in the adult system or the potential effects and costs of such a change. In particular, returning 17-year-olds to the juvenile system would have a significant effect on counties, which are primarily responsible for operating and funding juvenile corrections services in Wisconsin.

Therefore, at the request of the Joint Legislative Audit Committee, we reviewed the involvement of 17-year-old offenders in each part of the criminal justice system by:

- analyzing data on arrests, case filings in state circuit courts, sentences imposed, and the number of 17-year-olds in selected county jails, in state prisons, and on probation;
- reviewing prison and probation case files for samples of 37 inmates and 40 individuals on probation and reviewing detailed criminal history data for a sample of 100 individuals who were released from prison or probation;
- interviewing staff of the state agencies responsible for administering or collecting criminal justice data; jail administrators, district attorneys, judges, and school officials in five counties; and human services officials in seven counties who provided information about the types and costs of services provided through their juvenile court and correctional systems; and
- estimating the potential fiscal effects to the State and counties of returning 17-year-olds to the juvenile correctional system.

Criminal Offenses

Data on individuals in the criminal justice system are maintained by a variety of agencies at the state and local levels, including DOC, the Office of Justice Assistance (OJA), the Wisconsin Court System, and county jails. Although we used these various sources of data to analyze 17-year-old offenders in the criminal justice system, it should be noted that differences in the time periods available and methods with which data are recorded limited the extent to which we could make direct comparisons.

***Crimes are categorized
in a variety of ways.***

In particular, each data system uses different methods of recording, categorizing, and reporting the crimes for which individuals are arrested, charged, sentenced, and incarcerated. For example, OJA collects arrest data for 38 crime types but reports these data to the public using primarily the Federal Bureau of Investigation's (FBI's) crime categories, which include eight crime types. The FBI divides crimes into two groups: crimes against persons, which are the violent crimes of murder, forcible rape, robbery, and aggravated assault; and crimes against property, which are burglary, theft, motor vehicle theft, and arson. In 2005, only 11.2 percent of arrests in Wisconsin were for these eight crimes. By contrast, DOC groups crimes committed by individuals under its supervision into

21 categories. Some of those categories are considerably broader than the FBI's crime groups; for example, DOC's "sex assault other" category includes all degrees of sexual assault, and its "other violent crimes" category includes crimes such as abduction, stalking, and injury through negligent use of a weapon.

For the purpose of our analysis, we developed a common series of seven crime categories that we applied to each data source, using the best possible match between crime descriptions in the source data and our seven categories.

- Crimes against persons include the four crimes the FBI places in this category—murder, forcible rape, robbery, and aggravated assault—as well as other violent crimes and crimes with an implied threat of violence, such as sexual assault, battery, stalking, child enticement, and kidnapping.
- Drug crimes include possession of controlled substances; manufacture, delivery, or distribution of controlled substances; and possession of drug paraphernalia.
- Property crimes include the FBI's four crimes against property, as well as crimes such as vandalism and fraud.
- Public order crimes include offenses such as disorderly conduct, prostitution, and illegal gambling.
- Status crimes are truancy, curfew violations, underage drinking, and other offenses in which the offender's age is a factor.
- Traffic crimes include operating a motor vehicle while under the influence of intoxicants, operating a motor vehicle without a valid license, and other traffic violations that are state criminal offenses.
- Other crimes include all crimes not otherwise categorized, such as bail jumping, escape, and perjury, as well as those for which a category could not be determined from the original data.

Criminal Justice Process

Wisconsin's criminal justice process involves both state and local agencies.

Several state and local agencies share responsibility for administration of the adult criminal justice process in Wisconsin. Local law enforcement agencies, including municipal police departments and county sheriffs' agencies, arrest and may jail adults suspected of committing crimes or violating local ordinances.

Local ordinance violations by adults—including all 17-year-olds—are prosecuted in municipal courts by municipal attorneys, except in communities without municipal courts or attorneys, where these cases are prosecuted in circuit court by district attorneys. Violations of state law are referred to district attorneys, who determine whether to file charges in state circuit court. Cases are then heard by circuit court judges, who impose sentences on offenders who plead guilty or no contest or who are found guilty at trial. Both district attorneys and judges can exercise discretion in determining whether and how cases are charged, tried, and sentenced. For example, they may decline to file charges, reduce or dismiss charges, enter into diversion or deferred prosecution agreements, try cases through alternative treatment-oriented programs, or impose alternative sentencing arrangements.

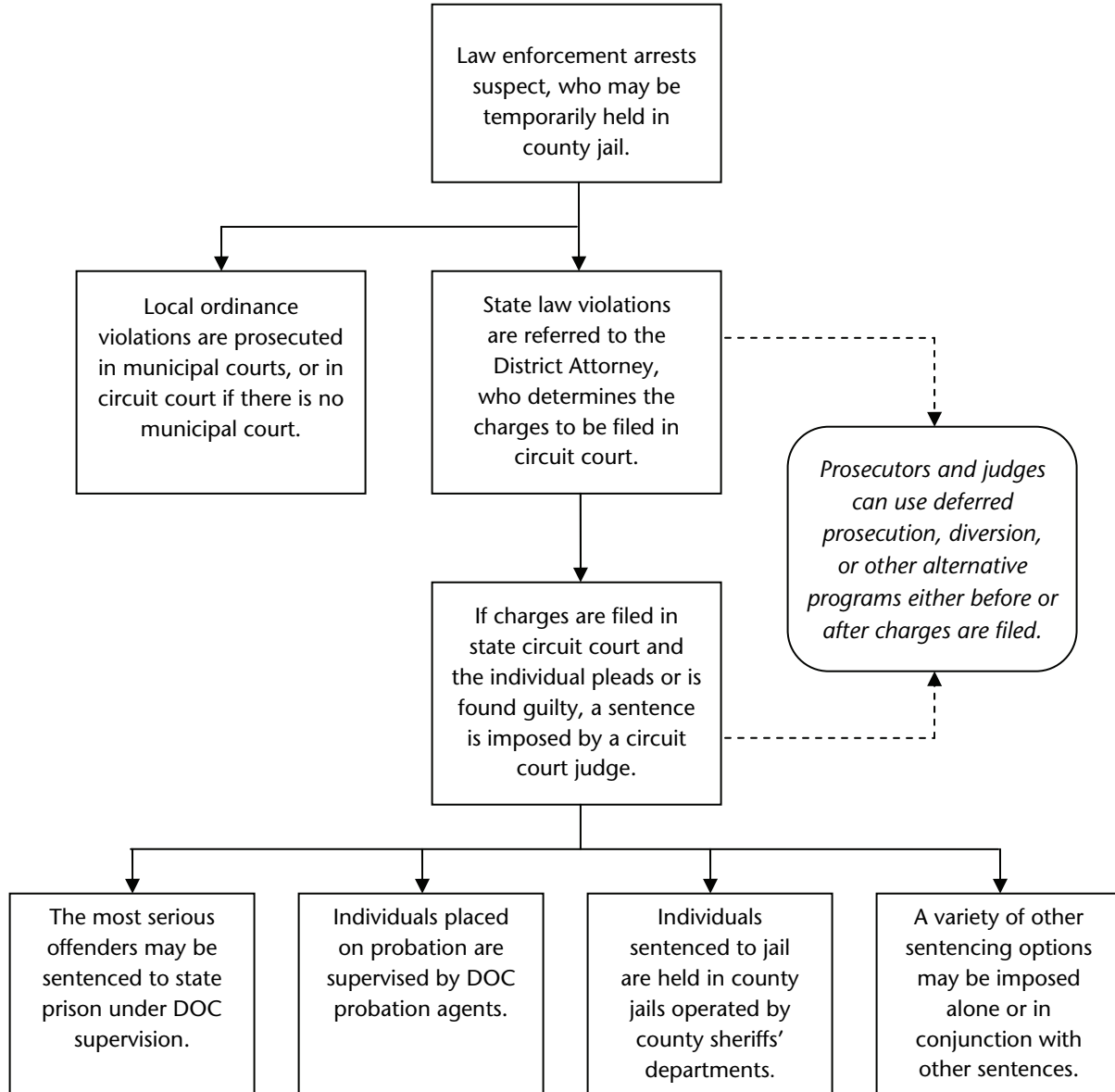
Adults who are sentenced to jail are returned to the custody of the county sheriff's department, while those sentenced to state prison are placed under the custody of DOC. Adults placed on probation are supervised by DOC probation agents and in some cases may also be required to serve time in jail.

Criminal justice system officials exercise discretion in processing cases.

Figure 3 provides an overview of the criminal justice process, including points at which law enforcement officials, prosecutors, and judges can exercise discretion in dismissing cases or pursuing alternative dispositions.

Figure 3

Criminal Justice Process for Adults



Arrests ■

Wisconsin law enforcement agencies are required by state law to submit annual arrest data to OJA, which compiles and submits them to the FBI. We reviewed the most recent arrest data available for 17-year-olds, which had been submitted to OJA by 370 law enforcement agencies from 2001 through 2005.

Arrest Rates

Law enforcement agencies count each arrest separately when they report arrest data, even though individuals may be arrested multiple times during a single year, and federal guidelines do not require that agencies report the arrests of specific individuals to OJA. Assessing trends in criminal activity by 17-year-olds over the time period we reviewed is further complicated by an inconsistency in data reporting for Milwaukee. The City of Milwaukee Police Department reported that after implementing a new computer program for records management, the number of annual arrests declined by 32.9 percent in 2005, and arrests of 17-year-olds declined by 20.7 percent, or 1,263 arrests. Milwaukee officials and OJA reviewers were unable to fully explain the decline.

***From 2001 through 2005,
an average of 29,626
17-year-olds were
arrested each year.***

As shown in Table 1, the reported number of annual arrests of 17-year-olds declined in three of the four years in our review period. From 2001 through 2005, it averaged 29,626 per year. The arrest rate, or number of arrests per 1,000 17-year-olds, was 332.7 in 2005.

Table 1

**Arrest Rates of 17-Year-Olds
2001 through 2005**

	Annual Arrests of 17-Year-Olds ¹	17-Year-Old Population	Arrest Rate per 1,000 17-Year-Olds
2001	30,752	81,090	379.2
2002	31,416	81,888	383.6
2003	30,518	83,410	365.9
2004	28,308	82,020	345.1
2005 ²	27,138	81,575	332.7

¹ Individuals may be arrested multiple times during a single year, and each arrest is counted separately.

² Change from 2004 to 2005 may be caused by a change in how the City of Milwaukee records arrest data.

From 2001 through 2005, 17-year-olds accounted for 6.7 percent of all arrests in Wisconsin.

From 2001 through 2005, 17-year-olds were 1.5 percent of Wisconsin’s total population. However, as shown in Table 2, they accounted for 6.7 percent of total arrests statewide during that period. Appendix 1 contains additional population and demographic data for 17-year-olds in Wisconsin.

Table 2

**Arrests of 17-Year-Olds as a Percentage of Total Arrests
2001 through 2005**

	Annual Arrests of 17-Year-Olds	All Annual Arrests	Arrests of 17-Year-Olds as a Percentage of All Annual Arrests
2001	30,752	449,837	6.8%
2002	31,416	449,759	7.0
2003	30,518	441,654	6.9
2004	28,308	451,973	6.3
2005	27,138	423,535	6.4
Total	148,132	2,216,758	6.7%

Table 3 characterizes the reported 148,132 arrests of 17-year-olds from 2001 through 2005 by offense, gender, and county. The arrest data collected by OJA do not include race for each age group; however, in all age groups whites accounted for 75.7 percent of arrests, while African-Americans accounted for 20.4 percent, American Indians 2.5 percent, and Asians 1.4 percent. Arrest data do not identify Hispanic/Latino ethnicity.

Table 3

Arrests of 17-Year-Olds¹
2001 through 2005

Offense Category	Number	Percentage of Total
Crimes Against Persons	7,482	5.0%
Drug Crimes	9,741	6.6
Other Crimes	43,923	29.6
Property Crimes	24,973	16.9
Public Order Crimes	22,483	15.2
Status Crimes	37,156	25.1
Traffic Crimes	2,374	1.6
Total	148,132	100.0%

Gender	Number	Percentage of Total
Male	106,710	72.1%
Female	41,365	27.9
Unknown	57	<0.1
Total	148,132	100.0%

County of Arrest	Number	Percentage of Total
Milwaukee	31,075	21.0%
Dane	11,327	7.7
Waukesha	7,210	4.9
Rock	6,532	4.4
Brown	6,036	4.1
Outagamie	5,732	3.9
La Crosse	5,121	3.5
Kenosha	4,945	3.3
Winnebago	4,496	3.0
Washington	4,117	2.8
All Other Counties	61,541	41.5
Total	148,132	100.0%

¹ The arrest data collected by OJA do not include race and ethnicity by age group.

Crimes against persons accounted for 5.0 percent of arrests of 17-year-olds.

The crimes for which 17-year-olds were arrested varied:

- Status offenses in which the individual's age is a factor, such as curfew violations and underage drinking, accounted for more than one-quarter of arrests.

- Property crimes accounted for 16.9 percent of arrests: 57.0 percent of all property crimes arrests were for theft, while 19.2 percent were for vandalism.
- Public order crimes, nearly all of which were disorderly conduct, accounted for 15.2 percent of arrests.
- Drug crimes, approximately two-thirds of which were for marijuana possession, accounted for 6.6 percent of arrests.
- Crimes against persons, which are often violent crimes, accounted for 5.0 percent of arrests: 70.5 percent of crimes against persons were assaults, while 2.4 percent were murders.
- Almost 30.0 percent of arrests were in the other crimes category, which includes a range of offenses that are not specifically identified in the data reported to OJA, such as local ordinance violations.

As shown in Table 4, 2005 arrest rates were similar for 16-, 17-, 18-, and 19-year-olds, and significantly higher than those for persons 21 and older.

Table 4
Arrest Rates by Age Group
 2005

Age	Arrests ¹	Age Group Population	Arrest Rate per 1,000 in Age Group
15	22,367	81,487	274.5
16	26,719	79,677	335.3
17	27,138	81,575	332.7
18	27,550	82,969	332.1
19	26,617	81,453	326.8
20	24,708	83,588	295.6
21 and Older	235,869	4,010,469	58.8
Total	390,968	4,501,218	86.9

¹ Individuals may be arrested multiple times during a single year, and each arrest is counted separately.

As shown in Table 5, adults under 21 tended to be arrested for similar offenses in 2005, including significant percentages of status offenses, which are generally not applicable to older individuals.

Table 5

**Adult Arrests by Age Group and Offense Category
2005**

Offense Category	17		18-20		21 and Older	
	Number	Percentage of Total for Age Group	Number	Percentage of Total for Age Group	Number	Percentage of Total for Age Group
Crimes Against Persons	1,352	5.0%	3,615	4.6%	19,148	8.1%
Drug Crimes	1,865	6.9	6,460	8.2	14,369	6.1
Other Crimes	8,082	29.8	18,120	23.0	81,485	34.5
Property Crimes	4,457	16.4	10,701	13.6	33,858	14.4
Public Order Crimes	3,904	14.4	8,909	11.3	42,127	17.9
Status Crimes	7,015	25.8	27,182	34.4	7,634	3.2
Traffic Crimes	463	1.7	3,888	4.9	37,248	15.8
Total	27,138	100.0%	78,875	100.0%	235,869	100.0%

■ ■ ■ ■

Court Proceedings ■

The criminal justice process for individuals accused of violating Wisconsin law includes prosecution and sentencing in the State's circuit courts. We analyzed circuit court cases filed from 2002 through 2006, as well as sentencing for individuals who were 17 at the time of offense. In addition, we reviewed some of the additional options available to district attorneys and judges, including deferred prosecution programs, alternative sentencing, and expungement of the criminal record.

Case Referral and Prosecution

Alleged violations of state law are referred to district attorneys for prosecution decisions.

District attorneys have several options for handling cases referred to them by law enforcement. They may decline prosecution, refer the case to a deferred prosecution or diversion program, or prosecute the case by filing charges in circuit court.

In the five counties we visited—Brown, La Crosse, Lincoln, Milwaukee, and Rock—district attorneys reported that age does not usually affect whether they file charges, although it may affect the type of charges filed. Several district attorneys said because criminal convictions—particularly for felonies—can have negative consequences for a 17-year-old's future, they may prosecute certain offenses as ordinance violations rather than as criminal cases, or as misdemeanors rather than as felonies. The district attorneys in all five counties also reported that age affects the sentences they recommend for 17-year-olds. The district attorneys emphasized that

although the offender's age affects the decisions they make, it is in the context of other important factors, such as the severity of the offense and previous criminal record. According to the district attorneys, many 17-year-olds are first-time offenders who have committed relatively minor offenses, factors which also affect how their referrals are handled and the types of dispositions they receive.

Deferred Prosecution and Diversion

Deferred prosecution agreements offer individuals the opportunity to have charges reduced or dismissed.

Deferred prosecution offers individuals who have been charged with crimes the opportunity to have their charges reduced or dismissed, subject to their compliance with the terms of a written deferred prosecution agreement. These agreements may require:

- drug and alcohol assessment and treatment;
- drug testing;
- participation in therapy;
- community service; or
- participation in restorative justice programming.

The decision to use deferred prosecution is made by the district attorney on a case-by-case basis, although usually only first-time, nonviolent offenders are eligible. If offenders do not comply with the terms of deferred prosecution agreements, the district attorney will resume criminal proceedings.

District attorneys in four of the five counties we visited use deferred prosecution options. The district attorney in Milwaukee County also uses diversion agreements with offenders, which are similar to deferred prosecution except that cases are diverted from the criminal justice system without charges being filed. Complete data on the extent to which 17-year-olds had deferred prosecution and diversion agreements were not readily available, in part because the arrangements are sometimes informal. However, anecdotal evidence suggests deferred prosecution agreements may be used more often for 17-year-olds than for older offenders. Some district attorneys reported that this is the case, and two provided data for specific programs:

- From 2003 through 2006, 172 offenders who were 17 or younger participated in Rock County's deferred prosecution program and accounted for 29.0 percent of program participants during this period.
- In 2006, 28 17-year-old offenders in Milwaukee County participated in community conferencing, which is a restorative justice program typically used as part of a deferred prosecution or diversion agreement. 17-year-old offenders accounted for 33.3 percent of community conferences held in that year.

Criminal Court Filings

The Consolidated Court Automation Programs, or CCAP, include the case management system administered by the Wisconsin Court System and contain data on circuit court cases filed in 71 counties; Portage County does not enter criminal cases into CCAP. Although cases may include multiple charges, CCAP categorizes them based on the most serious charge as defined in statute.

We reviewed CCAP data from 2002 through 2006 for criminal cases filed against individuals who were 17 at the time of their alleged offense and therefore considered adults for purposes of prosecution. Data on cases in municipal and federal courts were not readily available and are not included in our analysis.

In 2006, 6,557 cases against 17-year-olds were filed in criminal court.

As shown in Table 6, criminal cases filed against individuals who were 17 years old at the time of their alleged offense decreased from 6,686 cases in 2002 to 6,557 cases in 2006, which is 1.9 percent. Nevertheless, as a percentage of all criminal cases filings, the percentage filed against 17-year-olds remained relatively steady.

Table 6

Annual Criminal Case Filings Against 17-Year-Olds¹
2002 through 2006

Calendar Year	All Criminal Case Filings	Cases Filed Against 17-Year-Olds	
		Number	Percentage of All Criminal Case Filings
2002	152,891	6,686	4.4%
2003	162,043	6,708	4.1
2004	160,486	6,304	3.9
2005	159,848	6,383	4.0
2006	152,739	6,557	4.3
Total	788,007	32,638	4.1%

¹ Age at time of alleged offense.

Table 7 shows the characteristics of 32,638 criminal cases filed against 17-year-olds. From 2002 through 2006, 79.9 percent of filings were against males. Milwaukee County accounted for the most filings, with 14.7 percent. Over this period, 58.2 percent of the filings statewide were against 17-year-olds who were white, and 19.7 percent were against 17-year-olds who were African-American. Appendix 2 shows the number of cases filed against 17-year-olds in each county from 2002 through 2006.

Table 7

Criminal Case Filings Against 17-Year-Olds¹
2002 through 2006

Gender	Number	Percentage of Total
Male	26,090	79.9%
Female	5,999	18.4
Unknown	549	1.7
Total	32,638	100.0%

Race/Ethnicity	Number	Percentage of Total
White	19,008	58.2%
African-American	6,419	19.7
Hispanic/Latino	955	2.9
American Indian	803	2.5
Asian or Pacific Islander	444	1.4
Other or Unknown	5,009	15.3
Total	32,638	100.0%

County of Filing	Number	Percentage of Total
Milwaukee	4,805	14.7%
Dane	2,204	6.8
Racine	1,581	4.8
Rock	1,495	4.6
Waukesha	1,391	4.3
Kenosha	1,181	3.6
Marathon	1,111	3.4
Outagamie	1,030	3.2
Brown	1,001	3.1
Winnebago	906	2.8
All Other Counties	15,933	48.7
Total	32,638	100.0%

¹ Age at time of alleged offense.

As shown in Table 8, property crimes, such as theft and burglary, were charged in 29.8 percent of cases filed against 17-year-olds from 2002 through 2006. Battery was the most common crime against persons and accounted for nearly one-half of the crimes in that offense category for which 17-year-olds were charged.

Table 8
Criminal Cases Filed Against 17-Year-Olds by Offense Category¹
 2002 through 2006

Offense Category ²	Cases Filed	
	Number	Percentage of Total
Crimes Against Persons	4,821	14.8%
Drug Crimes	5,515	16.9
Other Crimes	3,681	11.3
Property Crimes	9,737	29.8
Public Order Crimes	5,620	17.2
Traffic Crimes	3,264	10.0
Total	32,638	100.0%

¹ Age at time of alleged offense.

² Most serious charge; a case may include multiple charges.

17-year-olds were most frequently charged with misdemeanor disorderly conduct.

Although 17-year-olds were most often charged with property crimes, the most frequently charged offense was disorderly conduct, a misdemeanor we categorized as a public order crime. Table 9 shows the types of offenses with which 17-year-olds were charged most frequently during 2006. In approximately two-thirds of those cases, the most serious charge was a misdemeanor, while approximately one-third involved felony charges. Section 939.60, Wis. Stats., defines a felony as a crime punishable by incarceration in the Wisconsin state prisons; all other crimes are misdemeanors.

Table 9

Criminal Cases Filed Against 17-Year-Olds in 2006¹

Offense Charged ²	Number of Cases	Percentage of Total
Misdemeanors		
Disorderly Conduct	675	10.3%
Drug Possession	532	8.1
Theft	517	7.9
Resisting Officer	477	7.3
Battery	428	6.5
Other Misdemeanors	1,811	27.6
Total Misdemeanors	4,440	67.7
Felonies		
Burglary	464	7.1
Bail Jumping	227	3.5
Drug Manufacture or Delivery	214	3.3
Drug Possession	199	3.0
Operate Vehicle without Consent	165	2.5
Other Felonies	848	12.9
Total Felonies	2,117	32.3
Total Cases	6,557	100.0%

¹ Age at time of alleged offense.

² Most serious charge; a case may include multiple charges.

Sentencing

Judges sentence individuals who plead guilty as charged, as well as those who are found guilty by a judge or a jury. Individuals convicted of felonies in state circuit court and sentenced to one year or longer are incarcerated in a state prison, while individuals sentenced to less than one year—whether for a felony or a misdemeanor—serve their sentences in a county jail. Other sentencing options include probation, fines, and community service.

We reviewed Wisconsin Sentencing Commission data on sentencing in cases that were filed as felonies and in which the offense was committed on or after February 1, 2003, when “truth in sentencing”

legislation reclassified and expanded the classes of felony offenses, created sentencing guidelines, and changed the maximum allowable sentences for some crimes. Over a period of approximately four years, offenders under the age of 21, including 17-year-olds, were most commonly sentenced for property crimes such as theft and burglary, as shown in Table 10. Among 17-year-old offenders, crimes against persons was the second most common sentencing category. Within that category, battery, robbery, and sexual assault were the most frequent specific offenses.

Table 10

Offense and Age Group of Sentenced Individuals in Cases Filed as Felonies¹
February 2003 through January 2007

Offense Category	17		18–20		21 and Older	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Crimes Against Persons	787	24.6%	3,367	20.6%	12,220	19.7%
Drug Crimes	459	14.3	4,098	25.1	16,748	27.0
Other Crimes	293	9.1	2,053	12.5	10,130	16.3
Property Crimes	1,393	43.5	5,247	32.1	11,871	19.1
Public Order Crimes	155	4.8	927	5.7	3,947	6.4
Traffic Crimes	98	3.1	575	3.5	6,694	10.8
Unknown	18	0.6	90	0.5	407	0.7
Total	3,203	100.0%	16,357	100.0%	62,017	100.0%

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

78.4 percent of 17-year-old offenders were placed on probation in felony cases.

Younger adult offenders were generally more likely to be placed on probation and less likely to receive prison sentences than older offenders. As shown in Table 11, 78.4 percent of 17-year-old offenders were placed on probation, compared to 69.4 percent of other adults under 21 and 54.4 percent of those 21 and older. By contrast, 9.7 percent of 17-year-old offenders were sentenced to prison, while 20.8 percent of those 21 and older received prison sentences.

Judges in all five counties we visited reported that age affects their sentencing decisions. They indicated they will sentence 17-year-old offenders to prison in the most serious cases but are otherwise most likely to place them on probation.

Table 11

Sentences by Age Group in Cases Filed as Felonies¹
 Felony Cases Filed February 2003 through January 2007

Sentence	17		18–20		21 and Older	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Prison	311	9.7%	2,086	12.8%	12,927	20.8%
Probation ²	2,512	78.4	11,358	69.4	33,724	54.4
Jail	242	7.6	2,157	13.2	11,646	18.8
Other ³	138	4.3	756	4.6	3,720	6.0
Total	3,203	100.0%	16,357	100.0%	62,017	100.0%

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² Jail time may be required as a condition of probation.

³ Primarily fines and forfeitures; also includes suspension of driver license and restitution payments.

Prison sentences for 17-year-old offenders averaged 3.6 years.

As shown in Table 12, 17-year-old offenders were sentenced to an average of 3.6 years in prison, 0.4 year in jail, or 2.8 years on probation. Across age groups, average sentence lengths for jail and probation were comparable. However, the average prison sentence was longer for 17-year-old offenders. This may reflect the judges' reported practice of sentencing 17-year-olds to prison only in the most serious cases.

Table 12

Sentence Length by Age Group in Cases Filed as Felonies¹
 February 2003 through January 2007

Age Group	Prison	Jail	Probation ²
17	3.6 years	0.4 year	2.8 years
18–20	3.2	0.3	2.7
21 and Older	3.1	0.3	2.8
All Ages	3.2	0.3	2.8

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003. Excludes life sentences, which are not consistently recorded in Wisconsin Sentencing Commission data. We identified approximately 59 life sentences imposed during this time period, including one received by a 17-year-old offender.

² Jail time may be required as a condition of probation.

Nearly one-quarter of offenders convicted in cases filed as felonies in Milwaukee and Racine counties were sentenced to prison.

As shown in Table 13, among the ten counties that sentenced the most 17-year-old offenders in cases that were filed as felonies, Milwaukee County sentenced 24.0 percent to prison and Racine County 23.8 percent, while the other eight counties each sentenced less than 10.0 percent to prison. Appendix 3 shows felony sentencing practices in all counties.

Table 13
County Sentencing Practices in Felony Cases Filed Against 17-Year-Old Offenders¹
 February 2003 through January 2007

County ²	Cases	Probation, Jail, and Other		Prison	
		Number	Percentage of County Cases	Number	Percentage of County Cases
Milwaukee	682	518	76.0%	164	24.0%
Racine	168	128	76.2	40	23.8
Kenosha	138	126	91.3	12	8.7
Waukesha	108	100	92.6	8	7.4
Outagamie	115	107	93.0	8	7.0
Marathon	107	103	96.3	4	3.7
Dane	169	163	96.4	6	3.6
Brown	126	122	96.8	4	3.2
Rock	143	139	97.2	4	2.8
Sheboygan	77	77	100.0	0	0.0
All Other Counties	1,370	1,309	95.5	61	4.5
Total	3,203	2,892	90.3	311	9.7%

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.
² Counties that sentenced the most 17-year-old offenders in cases filed as felonies.

As shown in Table 14, 10.7 percent of male 17-year-olds convicted in cases that were filed as felonies were sentenced to prison, compared to 2.5 percent of those who were female. Female offenders were also slightly less likely to receive jail sentences and more likely to receive probation or other sentences.

As shown in Table 15, 21.3 percent of 17-year-old African-American offenders and 19.4 percent of 17-year-old Hispanic/Latino offenders convicted in cases that were filed as felonies were sentenced to prison, compared to 4.2 percent of white offenders. As shown in Table 16, 32.8 percent of African-American offenders were sentenced for crimes against persons, compared to 29.0 percent of Hispanic/Latino offenders and 20.1 percent of white offenders.

Table 14

Gender of Sentenced 17-Year-Olds in Cases Filed As Felonies¹
February 2003 through January 2007

Sentence Type	Male		Female		Total	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Prison	302	10.7%	9	2.5%	311	9.7%
Probation	2,207	78.1	298	81.4	2,512 ²	78.4
Jail	217	7.7	25	6.8	242	7.6
Other	99	3.5	34	9.3	138 ²	4.3
Total	2,825	100.0%	366	100.0%	3,203²	100.0%

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² The offender's gender was not recorded in 12 cases, including 7 with probation terms and 5 with sentences other than prison, probation, or jail.

Table 15

Race/Ethnicity of Sentenced 17-Year-Olds in Cases Filed as Felonies¹
February 2003 through January 2007

Sentence Type	African-American	Hispanic/Latino	White	Other ²	Total
Prison	21.3%	19.4%	4.2%	5.8%	9.7%
Probation	68.8	75.5	82.4	82.1	78.4
Jail	8.1	4.5	7.6	7.3	7.6
Other	1.8	0.6	5.8	4.8	4.3
Total	100.0%	100.0%	100.0%	100.0%	100.0%
Number of Cases	854	155	1,690	504	3,203

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² All racial and ethnic groups for which the data included fewer than 100 cases, including Asians, American Indians, and individuals who reported multiple racial categories. Also includes cases with no offender racial data found in the Sentencing Commission database.

Table 16

Offense and Race/Ethnicity of Sentenced 17-Year-Olds in Cases Filed as Felonies¹
February 2003 through January 2007

Offense Category	African-American	Hispanic/Latino	White	Other ²	Total
Crimes Against Persons	32.8%	29.0%	20.1%	24.2%	24.6%
Drug Crimes	21.8	18.7	11.2	10.9	14.3
Property Crimes	28.5	34.9	50.7	47.6	43.5
Public Order Crimes	2.9	2.6	6.0	4.8	4.8
Traffic Crimes	3.7	4.5	2.5	3.2	3.1
Other Crimes	10.1	10.3	8.8	8.3	9.1
Unknown	0.2	0.0	0.7	1.0	0.6
Total	100.0%	100.0%	100.0%	100.0%	100.0%
Number of Cases	854	155	1,690	504	3,203

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² All racial and ethnic groups for which the data included fewer than 100 cases, including Asians, American Indians, and individuals who reported multiple racial categories. Also includes cases with no offender racial data found in the Sentencing Commission database.

Some believe these race/ethnicity differences reflect variation in the severity of the crimes committed, individual county criminal justice practices, and circumstances such as an offender's prior criminal history. Others believe the differences reflect disparate treatment of minorities. The question of disparate treatment of minorities in the criminal justice system has recently been studied by both the Wisconsin Sentencing Commission, which found some disparity in sentences imposed for certain crimes, and the Governor's Commission on Reducing Racial Disparities in the Wisconsin Justice System, which is scheduled to have released its final report on January 31, 2008.

85.3 percent of 17-year-olds convicted in misdemeanor cases were placed on probation or received other sentences such as fines and forfeitures.

We also reviewed CCAP sentencing data on cases filed as misdemeanors and criminal traffic violations. During our review period, almost three times more misdemeanor than felony cases were filed against 17-year-olds. Criminal traffic cases were less common. Sentences are typically shorter for misdemeanor and criminal traffic offenses than for felonies, and prison sentences are rare: 44.2 percent of 17-year-olds sentenced in misdemeanor cases were placed on probation and 14.7 percent were sentenced to jail,

while 41.1 percent received other sentences such as fines and forfeitures. Older offenders were somewhat more likely to receive jail sentences and less likely to be placed on probation. Misdemeanor sentence lengths were relatively consistent across age groups, averaging 1.5 years for probation placements and 0.1 year for jail. Appendix 4 includes detailed information about sentencing in misdemeanor and criminal traffic cases, including offense types, characteristics of offenders, and comparisons across age groups.

Alternative Justice Programs and Sentencing Options

Some of the counties we visited either have developed or are in the process of developing alternative justice programs and sentencing options for certain types of offenders, including:

- electronic monitoring programs, which are available in all five counties;
- day-reporting centers, where offenders are required to report daily or periodically and may receive supervision and services, which are available in La Crosse, Lincoln, and Milwaukee counties;
- problem-solving courts, such as drug and alcohol treatment courts, which are available in La Crosse and Rock counties;
- restorative justice programs, such as victim impact panels and community conferencing, which are available in Milwaukee County; and
- Volunteers in Probation, which is a statutorily authorized supervision and mentoring program available in Brown County.

Availability of alternative justice programs varies across the state.

Alternative justice programs may be operated by the courts, county sheriffs, other county departments, or local nonprofit organizations. Both program availability and funding vary among the counties, and limited statewide data are available.

As of June 2007, problem-solving courts—mainly drug courts—existed in 17 counties statewide. Some are funded by the Treatment Alternatives and Diversion program, which is operated by OJA, DOC, and the Department of Health and Family Services and provides grants to counties for developing alternatives to jail and prison for nonviolent offenders. Program funding is authorized in 2005 Wisconsin Act 25, the 2005-07 Biennial Budget Act. An estimated total of \$1.1 million in grants will be issued in calendar year 2008.

Criminal justice system officials in some counties reported that 17-year-olds often do not meet the eligibility criteria for alternative justice programs. For example, programs may require participants to be at least 18 years old, have a mental illness, be dependent on alcohol or drugs, or be at risk of receiving a jail or prison sentence. Some judges reported being reluctant to sentence 17-year-olds to drug court because they are unlikely to be sufficiently mature to participate.

Young offenders may be eligible to have misdemeanor convictions removed from their criminal records.

Under some circumstances, s. 973.015, Wis. Stats., allows the names and identities of individuals who have been convicted of misdemeanors to be expunged from criminal records. At the time of sentencing, a judge may order potential expungement for offenders who:

- were under the age of 21 at the time the offense was committed;
- were convicted of crimes for which the maximum penalty is one year or less in the county jail; and
- successfully complete their sentences and satisfy all conditions of probation, including no probation revocations.

Data were not readily available, but judges in four of the counties we visited reported that they allow expungement on a regular basis, although offenders may not always take the required steps to have their records expunged once they have met conditions. Some judges expressed concerns that expungement does little to mitigate the negative effects of a criminal conviction, particularly as they relate to obtaining employment, because potential employers have on-line access to CCAP public records before criminal records are expunged, and it is unclear whether offenders whose records have been expunged are required to inform potential employers of their criminal convictions.

County Jails ■

Adults, including 17-year-olds, may be held in county jails both before and during trial, as well as while serving a sentence. Statewide data on jail intake information, or bookings, were not available, so we requested jail booking data from five counties. We analyzed the time 17-year-olds spent in jail and the crimes for which they were held. We also interviewed jail administrators and school district officials to obtain information about education and other services received by 17-year-olds.

17-Year-Olds in County Jails

County jails in Wisconsin are usually operated by local sheriff's departments. Under s. 302.31, Wis. Stats., county jails may be used for a variety of purposes, including the detention of individuals charged with crimes and awaiting trial and the imprisonment of individuals convicted of crimes and sentenced to serve one year or less in jail. They may also be used to hold individuals for:

- nonpayment of fines or forfeitures;
- failure to appear in court;
- violations of probation or extended supervision;
and
- other reasons authorized by law.

From 2002 through 2006, 7,568 17-year-olds were booked into jail in Milwaukee County.

There are no statewide data on the number of 17-year-olds who are held in jail, in part because jails are not required to track or report this information to either the State or the federal government. In the past, OJA attempted to determine the number of 17-year-olds in county jail with an annual survey, but not all counties responded. Among those that did, 17-year-olds accounted for less than 5.0 percent of jail bookings. In the five counties we visited, jail bookings during the period shown in Table 17 ranged from 123 in Lincoln County to 7,568 in Milwaukee County.

Table 17
Jail Bookings of 17-Year-Olds¹

County	2002	2003	2004	2005	2006	Total
Brown County	145	140	126	95	142	648
La Crosse County	37	58	70	62	104	331
Lincoln County ²	–	24	33	36	30	123
Milwaukee County ³	1,642	1,567	1,453	1,500	1,406	7,568
Rock County	335	261	261	268	247	1,372

¹ Age at time of booking; individuals may be booked multiple times within a year.

² Data were not available for 2002.

³ Includes both the Criminal Justice Facility, which is administered by the sheriff’s department and received 95.5 percent of 17-year-olds booked in Milwaukee County, and the House of Correction, which is administered by the county executive’s office and received 4.5 percent.

17-year-olds accounted for 1.1 percent to 3.8 percent of jail bookings in five counties.

As shown in Table 18, 17-year-olds accounted for a relatively small percentage of all bookings in the five counties, ranging from 1.1 percent in La Crosse County to 3.8 percent in Rock County.

Table 18

17-Year-Olds as a Percentage of All Jail Bookings¹
2002 through 2006

County	17-Year-Old Bookings	All Bookings	Percentage of Total
Brown County ²	648	49,191	1.3%
La Crosse County	331	30,807	1.1
Lincoln County ³	123	4,286	2.9
Milwaukee County	7,568	266,977	2.8
Rock County	1,372	36,218	3.8

¹ Age at time of booking.

² Estimates. Data for all bookings were not complete.

³ Data were not available for 2002.

Most 17-year-olds were jailed for less than one week.

Only an estimated 5.0 percent of the 17-year-olds booked into jails in the five counties from 2002 through 2006 spent time serving sentences. Approximately two-thirds were held after being arrested but before trial, and the remainder were booked into jail for reasons such as failure to pay a fine, failure to appear in court, or violation of probation or extended supervision requirements. The majority of 17-year-olds spent less than one week in jail, as shown in Table 19. Several of the district attorneys and judges with whom we spoke reported that except in the most serious cases, 17-year-olds are unlikely to remain in custody until trial and are usually released on signature bonds or with relatively low bail.

Table 19

Time 17-Year-Olds Spent in Jail¹
2002 through 2006

Weeks in Custody	Brown County	La Crosse County	Lincoln County ²	Milwaukee County	Rock County
Less than 1 Week	80.0%	90.9%	63.2%	73.1%	79.5%
1–3.9 Weeks	8.5	3.0	16.7	10.2	9.6
4–7.9 Weeks	4.8	1.5	6.7	4.0	2.0
8–11.9 Weeks	1.6	0.6	6.7	2.7	1.2
12 Weeks and Over	5.1	4.0	6.7	10.0	7.7
Total	100.0%	100.0%	100.0%	100.0%	100.0%
Average Weeks in Custody	2.1	1.3	2.9	3.6	3.1

¹ Age at time of booking.

² Data were available only for 2006; 30 bookings.

Although most 17-year-olds were jailed for less than one week, a small number were jailed for one year or more. The longest periods 17-year-olds were jailed in the five counties we visited were:

- 2.5 years in Milwaukee County before trial on three felony charges, including 2nd degree reckless homicide, for which the convicted offender was subsequently sentenced to prison;
- 1.5 years in Rock County, both awaiting trial and serving a sentence for offenses including burglary, theft, and bail jumping;
- 1.2 years in Brown County both for a probation violation and serving a sentence for theft and criminal damage to property;
- 1.0 year in La Crosse County before trial on charges of manufacturing or delivering cocaine; and
- 0.5 year in Lincoln County for a probation violation.

17-year-olds were most often booked into jail for public order offenses.

As shown in Table 20, 17-year-olds were most often booked into jail for public order offenses—most frequently disorderly conduct and resisting or obstructing an officer—followed by property crimes that were most frequently theft, criminal damage to property, and operating a motor vehicle without the owner’s consent.

Table 20

Jail Bookings of 17-Year-Olds by Offense Category¹
2002 through 2006

Offense Category	Brown County	La Crosse County	Lincoln County ²	Milwaukee County	Rock County	Five County Average
Crimes Against Persons	12.8%	9.5%	10.0%	14.0%	9.4%	11.1%
Drug Crimes	8.5	11.7	26.7	14.5	10.9	14.5
Other ³	7.8	28.7	13.2	14.6	22.1	17.3
Probation Violations	7.2	3.2	16.7	5.0	7.6	7.9
Property Crimes	17.3	18.3	16.7	17.9	18.7	17.8
Public Order Crimes	27.2	21.4	16.7	20.1	20.1	21.1
Status Crimes	4.2	3.8	–	6.7	4.4	3.8
Traffic Crimes	15.0	3.4	–	7.2	6.8	6.5
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

¹ Age at time of booking; individuals may be booked for multiple offenses.

² Data were available only for 2006; 30 bookings.

³ Includes offenses such as bail jumping, carrying a concealed weapon, and unidentified county ordinance violations, as well as bookings that were not the result of criminal charges.

Across the five counties, 86.1 percent of 17-year-olds booked were male and 13.9 percent were female. Race and ethnicity are shown in Table 21. In Brown, La Crosse, Lincoln, and Rock counties, the largest percentage of those booked were white; in Milwaukee County, the largest percentage were African-American.

Table 21

Jail Bookings of 17-Year-Olds by Race/Ethnicity¹
2002 through 2006

County	Number of Bookings	African-American	American Indian	Asian/Pacific Islander	Hispanic/Latino ²	White	Unknown
Brown County	648	14.7%	17.6%	3.4%	9.7%	54.3%	0.3%
La Crosse County	331	9.7	1.2	7.0	–	82.1	0.0
Lincoln County ³	123	4.9	8.1	0.0	–	86.2	0.8
Milwaukee County	7,568	70.9	0.3	1.0	–	27.8	0.0
Rock County	1,372	29.1	0.7	0.8	5.6	63.8	0.0

¹ Age at time of booking.

² Not all counties provided consistent data on bookings of Hispanic/Latinos.

³ Data for 2002 were not available.

Services and Programming

For information on the educational services and rehabilitative programming provided to 17-year-olds in county jails, we interviewed jail administrators and school district staff in the five counties we visited and reviewed available data on the educational services 17-year-olds received.

Educational Services

School districts provide educational services to 17-year-olds in jail.

The school district in which a jail is located is responsible for providing educational services to individuals eligible to receive free public education under Wisconsin law, which includes those under 21 who have not yet received a high school diploma or its equivalent. Services must be provided to individuals under 18 regardless of whether they are requested, and to those from 18 to 21 upon request. State statutes do not specify educational services that must be provided, nor do they specify the period in which a district must respond to notification that a student is in jail.

Section PI 8.01(2)(f), Wis. Adm. Code, requires districts to provide high school students with 180 days and at least 1,137 hours of education annually, although it does not specify whether this requirement applies to students in jails. However, the State reimburses districts for the actual costs of educational services

they provide to students who are in county jails, based on reimbursement requests submitted by the school districts to the Department of Public Instruction.

During the 2006-07 school year, school districts provided educational services directly to jailed individuals under the age of 18 in four of the five counties we visited. In Lincoln County, the Merrill School District contracts with the Northcentral Technical College District for services. Both the number of individuals served and the number of hours of education provided each week varied, as shown in Table 22. However, it should be noted that individuals may be able to complete additional work in their cells or to participate in additional sessions if space is available.

Table 22
Educational Services Provided in County Jails¹
 2006-07 School Year

County	Service Provider	Weekly Hours of Service (approximately)	Students Served
Brown County	Green Bay School District	5 hours per week at main jail; 3 half-days at the Huber facility	40
La Crosse County	La Crosse School District	3 hours per week	2
Lincoln County	Merrill School District contracts with Northcentral Technical College	8 hours per week	2
Milwaukee County Criminal Justice Facility	Milwaukee Public Schools	7.5-12.5 hours per week	620
Milwaukee County House of Correction	Franklin School District	5-6.25 hours per week	277
Rock County	Janesville School District	10 hours per week	21

¹ Information for La Crosse and Lincoln counties includes only 17-year-olds; for other counties, it includes individuals 17 and younger.

The delivery of educational services varied among the counties we visited.

At four of the jails, individuals for whom districts are required to provide educational services are identified at the time of booking. In some counties, educational services are provided immediately, while in others the district waits until after the initial court

appearance to begin providing services. Among the counties we visited, only the Brown County jail requires 17-year-old inmates to participate in education, and those who refuse are sanctioned with confinement in their cells for 24 hours. Although attendance is usually voluntary, jail and district staff reported that inmates generally like to attend because it gives them an opportunity to leave their cells. District data indicate that during the 2006-07 school year:

- the Milwaukee County Criminal Justice Facility had an attendance rate of 50.8 percent, and 19.6 percent of students participated at least 80.0 percent of the time;
- the Milwaukee County House of Correction—which more often houses sentenced offenders who are held for longer periods than individuals in the Criminal Justice Facility—had an attendance rate of 75.9 percent, and 45.2 percent of students participated at least 80.0 percent of the time;
- the Rock County jail had an attendance rate of 83.2 percent, and 66.7 percent of students participated at least 80.0 percent of the time; and
- the Brown County jail reported attendance in a different fashion than the other counties and indicated that 57.5 percent of students had no unexcused absences.

District staff reported that jailed individuals may be absent for a variety of reasons besides choosing not to attend, including court dates, unit lock-downs, behavioral problems, and medical conditions.

Other Programming

The five counties we visited report that few rehabilitative programs are available to 17-year-olds in jail.

Rehabilitative programs available to 17-year-olds in the five counties we visited are minimal. The Lincoln County jail currently does not provide any programs because it lacks space. The four other county jails generally offer programs such as Alcoholics Anonymous, Narcotics Anonymous, and Bible study, all of which are provided by volunteers. The Milwaukee County House of Correction offers more programs, such as alcohol and drug assessments and job skills and vocational training, but staff reported that 17-year-olds do not usually participate, in part because some programs require participants to be at least 18 and others may conflict with participation in educational services.

Some jailed individuals may attend school or participate in rehabilitative programming in the community because they have been granted Huber privileges by the courts under s. 303.08(1), Wis. Stats. Huber privileges allow some individuals sentenced to a county jail for crimes, nonpayment of fines or forfeitures, or contempt of court the privilege of leaving for purposes such as:

- seeking employment or working;
- attending an educational institution; or
- obtaining counseling, therapy, or a treatment assessment.

Of the five counties we visited, only La Crosse does not grant Huber privileges to jail inmates. In the other four counties, 17-year-olds may be granted Huber privileges, although how often this occurs and the extent to which inmates use those privileges could not readily be determined.

Costs of 17-Year-Olds

As shown in Table 23, the estimated costs of housing 17-year-olds in county jails in 2006 ranged from \$20,800 in Lincoln County to \$5.4 million in Milwaukee County. These estimates are based on average daily costs for each county. Jail costs are typically paid with local property taxes.

Table 23

Estimated Costs of Jailing 17-Year-Olds¹
2006

County	Estimated Total Cost ²
Brown County	\$ 110,900
La Crosse County	22,300
Lincoln County	20,800
Milwaukee County	5,357,800
Rock County	392,400

¹ Age at time of booking.

² Based on average daily incarceration cost multiplied by the number of days individuals were held in jail.



State Correctional System ■

We reviewed DOC data on the numbers and characteristics of 17-year-old offenders under its supervision in state prisons or on probation, including the crimes for which they were convicted, and analyzed available information on the educational programming and other services available to them.

17-Year-Olds in the Adult Correctional System

From 2002 through 2006, 585 17-year-old offenders were admitted to prisons and 10,632 were placed on probation.

As shown in Table 24, 11,217 individuals who were 17 at the time of their offenses first entered the adult correctional system from 2002 through 2006. Of these, 10,632, or 94.8 percent, were placed on probation and supervised by probation agents in DOC's Division of Community Corrections, while 585, or 5.2 percent, were admitted to prison and placed under the custody of DOC's Division of Adult Institutions. From 2002 through 2006, 17-year-old offenders represented 4.1 percent of new prison admissions and 8.1 percent of new probation placements.

Table 24

Annual Admissions of 17-Year-Old Offenders to the Adult Correctional System¹
2002 through 2006

Year	Prison	Probation	Total
2002	146	2,335	2,481
2003	112	2,264	2,376
2004	124	2,051	2,175
2005	105	1,972	2,077
2006	98	2,010	2,108
Total	585	10,632	11,217

¹ Age at time of offense; year of initial entry.

Robbery was the most common crime of 17-year-old offenders admitted to prison.

As shown in Table 25, 72.8 percent of the 17-year-old offenders admitted to prison and 54.5 percent of those placed on probation had committed crimes against persons, which are typically violent crimes. Those admitted to prison were most commonly convicted of robbery, while those placed on probation were most commonly convicted of assault or battery. Nearly all prison admissions were for felony convictions, while 72.0 percent of probation placements were for misdemeanors.

Table 25

Offenses Committed by 17-Year-Old Offenders Entering the Adult Correctional System¹
2002 through 2006

Offense Category	Prison		Probation	
	Number	Percentage of Total	Number	Percentage of Total
Crimes Against Persons	426	72.8 %	5,791	54.5 %
Drug Crimes	95	16.2	1,884	17.7
Other Crimes	5	0.9	429	4.0
Property Crimes	59	10.1	2,518	23.7
Traffic Crimes	0	0.0	10	0.1
Total	585	100.0 %	10,632	100.0 %

¹ Age at time of offense.

Table 26 shows the characteristics of the 11,217 17-year-old offenders entering the adult correctional system from 2002 through 2006. Approximately one-half were 17 when they entered the adult correctional system, while one-half were older because court proceedings were completed at some point after they turned 18. Of the 17-year-old offenders entering the adult correctional system, 82.9 percent were male. Milwaukee County was the convicting county for 21.8 percent of those entering the adult correctional system, including 379 of the 585 prison admissions and 2,069 of the 10,632 probation placements.

Table 26

17-Year-Old Offenders Entering the Adult Correctional System¹
2002 through 2006

Supervision Type	Number	Percentage of Total
Prison	585	5.2 %
Probation	10,632	94.8
Total	11,217	100.0 %

Age at Admission	Number	Percentage of Total
17	5,635	50.2 %
18	4,710	42.0
19	667	6.0
>20	205	1.8
Total	11,217	100.0 %

Race/Ethnicity	Number	Percentage of Total
White	7,361	65.6%
African-American	2,579	23.0
Hispanic/Latino	542	4.8
American Indian	411	3.7
Asian or Pacific Islander	255	2.3
Unknown	69	0.6
Total	11,217	100.0 %

Convicting County	Number	Percentage of Total
Milwaukee	2,448	21.8 %
Dane	527	4.7
Waukesha	516	4.6
Racine	472	4.2
Kenosha	438	3.9
Brown	371	3.3
Marathon	346	3.1
Rock	311	2.8
Outagamie	307	2.7
Winnebago	306	2.7
All Other Counties	5,175	46.2
Total	11,217	100.0 %

Gender	Number	Percentage of Total
Male	9,303	82.9 %
Female	1,914	17.1
Total	11,217	100.0 %

¹ Age at time of offense.

Prison inmates are assigned to facilities based on security classification, programming needs, and available space.

DOC assigns prison inmates to 1 of 20 institutions and 16 correctional centers based on security classification, programming needs, and available space. Inmates may serve time in multiple facilities. As shown in Table 27, 27.0 percent of 17-year-old offenders served the largest portion of their time at Racine Youthful Offender Correctional Facility, which is specifically designed to meet the needs of male

inmates from 15 through 24. Of the 14 17-year-old female offenders admitted to prison from 2002 through 2006, 10 served the largest portion of their time at Taycheedah Correctional Institution.

Table 27

Facilities Where 17-Year-Old Offenders Spent Most Prison Time¹
Prison Admissions from 2002 through 2006

Facility	Security Level	Number	Percentage of Total
Racine Youthful Offender Correctional Facility	Medium	158	27.0 %
Prairie du Chien Correctional Institution	Medium	80	13.7
Green Bay Correctional Institution	Maximum	62	10.6
Kettle Moraine Correctional Institution	Medium	56	9.6
Racine Correctional Institution	Medium	22	3.7
Fox Lake Correctional Institution	Medium	18	3.1
Oshkosh Correctional Institution	Medium	16	2.7
Black River Correctional Center	Minimum	15	2.6
Dodge Correctional Institution	Maximum	15	2.6
Columbia Correctional Institution	Maximum	13	2.2
All Other Facilities		130	22.2
Total		585	100.0 %

¹ Age at time of offense. Prison inmates are moved to different facilities as their security classifications and program needs change. This table shows the number of inmates who served the largest portions of their sentences at the facilities listed.

As shown in Table 28, 82.9 percent of the offenders who served the largest portion of their time at Racine Youthful Offender Correctional Facility were within 50 miles of their convicting counties, while most offenders at Prairie du Chien Correctional Institution and Green Bay Correctional Institution were more than 100 miles from their convicting counties. These differences can be explained, at least in part, by the fact that nearly two-thirds of 17-year-old offenders admitted to prison were convicted in Milwaukee County.

Table 28

**Distance Between Convicting County and Facility Where
17-Year-Old Offenders Spent Most Time¹**
Prison Admissions from 2002 through 2006

Distance	Racine Youthful Offender Correctional Facility	Prairie du Chien Correctional Institution	Green Bay Correctional Institution
Within 50 Miles	82.9 %	1.2 %	8.1 %
51–100 Miles	7.6	3.8	6.4
101–200 Miles	6.3	91.2	83.9
More than 200 Miles	3.2	3.8	1.6
Total	100.0 %	100.0 %	100.0 %

¹ Age at time of offense. Prison inmates are moved to different facilities as their security classifications and program needs change. This table shows the distance between convicting county and facility for inmates who served the largest portions of their sentences at the facilities listed.

Services and Programming

We reviewed the types and extent of services received by 17-year-old offenders in the adult correctional system. However, data maintained by DOC provided limited information on individual offenders' service needs and program participation. In conducting our analysis, we reviewed all available information and interviewed DOC staff involved with prison education and other programming. In addition, we conducted a detailed file review for a sample of 17-year-old offenders who entered the adult correctional system in 2002, including 37 who entered prison and 40 who were placed on probation.

Programming and Other Services at Adult Institutions

Offenders admitted to prison are evaluated to determine programming needs.

Offenders who are admitted to prison are evaluated at intake to determine their risk of attempting escape or contributing to disruptive behavior in an institution, as well as their programming needs. At that time, they receive security placements, initial institution assignments, and recommendations for programming, which may include:

- AODA programs, which are typically offered near the end of the incarceration period to help prepare offenders for release to the community;

- adult basic education and high school equivalency diploma testing;
- sex offender programs to help offenders understand, accept responsibility for, and change sexually assaultive behavior and seek to reduce their risk of reoffending;
- treatment programs such as anger management;
- vocational programs in areas such as data entry, horticulture, welding, cosmetology, and food service; and
- work release programs, which allow minimum security inmates to improve employment skills, pay financial obligations, and prepare for release.

In addition, a review of placement and service needs is conducted at least once every 12 months, when there is a significant change in an offender's situation, or when a request is made by a DOC official or the offender. Inmates are assigned to participate in programs based on factors such as availability, previous participation in a similar program, and whether program completion will decrease the risk of reoffending. Appendix 5 provides information on program availability at each facility.

Education programs are available at all maximum and medium security institutions except Dodge Correctional Institution, the intake facility for male offenders. We found that 17-year-old offenders spent an average of 47 days at Dodge Correctional Institution for intake. At the institutions offering education programs, inmates work toward a high school equivalency diploma, and 17-year-olds are in the same educational setting as other offenders. Under DOC policy, 17-year-olds are required to be in education programs if they have not earned a high school diploma or high school equivalency diploma. Staff at the institutions reported that a full-time student could receive between 4 and 6 hours of education each weekday.

429 of 585 17-year-old offenders in prison participated in at least one education program.

Offenders may participate in multiple programs, and with the exception of education requirements for 17-year-olds, program involvement is voluntary. Of the 585 17-year-old offenders admitted to prison from 2002 through 2006, 494 participated in some type of programming during our review period. Program involvement is based on the most recent information recorded for individual offenders. As shown in Table 29, education programs had the highest level of participation, and 43.6 percent of 429 participants

completed at least one education program. AODA programs, other treatment programs, and vocational programming had lower participation rates but higher completion rates.

Table 29

Program Participation by 17-Year-Old Offenders in Prison¹
As of April 8, 2007²

Program Category	Number of Participating Offenders ³	Number of Participants Who Completed Programming ⁴	Percentage of Participants Who Completed Programming
AODA	81	44	54.3 %
Education	429	187	43.6
Sex Offender Treatment	11	3	27.3
Other Treatment	159	86	54.1
Vocational	119	54	45.4
Work Release ⁵	30	n/a	n/a
Other	44	23	52.3

¹ Offenders who were 17 years old at time of offense and who were admitted to prison from 2002 through 2006.

² Program involvement is based on the most recent information recorded for individual offenders, which may be up to 12 months out of date because data are typically recorded only as part of a review of placement and service needs.

³ Offenders who participated in at least one program in the specified category; offenders may participate in multiple programs both within and across categories.

⁴ Offenders who completed at least one program in the specified category.

⁵ Work release programming does not have a completion status.

Of 585 17-year-old offenders, 77 refused to participate in at least one program, including 37 who refused AODA programming. Offenders may be placed on a waiting list if the need for a program is greater than its capacity. As of April 2007, 289 17-year-old offenders were on a waiting list for vocational programs and 181 were on a waiting list for AODA or other treatment programming. In addition, 187 17-year-old offenders were unable to participate in programming that had been discontinued or was not available at their facilities, including 126 offenders who were determined by DOC to need AODA programming. As noted, offenders may be moved to other facilities based in part on their programming needs. DOC staff indicated that offenders are given priority for program placement based on their proximity to release, conduct, and educational attainment.

17 of 31 17-year-old offenders whose files we reviewed earned a high school equivalency diploma while incarcerated.

We reviewed the files of 37 17-year-old offenders admitted to prison in 2002 and found that 6 had earned a high school diploma or high school equivalency diploma before beginning their prison sentences. Of the 31 who had not, 17 offenders earned a high school equivalency diploma while incarcerated.

Among the 37 inmates whose files we reviewed, 20 were identified as having moderate or serious alcohol or drug problems. At the time of our review, 4 of those 20 had completed or were involved in AODA treatment programs, and 3 had refused AODA treatment programs. The files did not indicate whether the other 13 had participated in AODA treatment programs.

Programming and Other Services in Community Corrections

In our sample of 17-year-old offenders on probation, 67.5 percent were initially on a maximum level of supervision.

When an offender is placed on probation, the Division of Community Corrections assigns one of the six levels of supervision shown in Table 30. Table 31 shows the initial supervision status of 40 17-year-old offenders who were placed on probation in 2002 and whose probation files we reviewed. The initial placement of 67.5 percent on a maximum level of supervision may reflect the fact that the most common offenses committed by 17-year-olds placed on probation are the violent crimes of assault and battery, which typically result in assignment to maximum supervision. DOC also considers offenders who are convicted of their first criminal offense at 19 or younger to be a higher risk. The level of supervision may change at any time if new information becomes available or if there are significant changes in an offender's situation. In addition, offenders may automatically be placed on lower levels of supervision after meeting requirements for their current levels of supervision.

Table 30

Probation Supervision Requirements

Level of Supervision	Face-to-Face Contact with Agent	Home Visit
Administrative	Every 6 months	As Appropriate
Minimum	Every 3 months	As Appropriate
Medium	Every month	Every 2 months
Maximum	Every 14 days	Every month
High Risk	Every 7 days	Every month
Intensive	Every 7 days	Every month

Table 31

Initial Level of Supervision for 17-Year-Old Offenders¹

Level of Supervision	Number	Percentage of Total
Administrative	0	0.0 %
Minimum	0	0.0
Medium	6	15.0
Maximum	27	67.5
High Risk	2	5.0
Intensive	1	2.5
Unknown	4	10.0
Total	40	100.0 %

¹ Age at time of offense. Includes 40 individuals placed on probation in 2002 whose files we reviewed.

DOC probation agents evaluate offenders convicted of felonies or certain serious misdemeanors who are placed on probation to assess their risk for future criminal behavior. The evaluation considers educational attainment, alcohol and drug problems, and mental health issues. Of the 10,632 17-year-old offenders placed on probation from 2002 through 2006, 7,133 evaluations were reportedly completed. The remaining 3,499 offenders did not have evaluation information available because they were convicted of less-serious misdemeanors.

As noted, 17-year-olds who have not graduated from high school are required to attend school. As shown in Table 32, 5,195 of the 17-year-old offenders placed on probation from 2002 through 2006, representing 79.6 percent of those for whom information was available, had not completed grade 12 before being placed on probation.

Table 32

Education Levels of 17-Year-Old Offenders Placed on Probation¹
2002 through 2006

Last Grade Completed	Number	Percentage of Total
8 or less	196	1.8 %
9	523	4.9
10	1,652	15.6
11	2,824	26.6
12, or High School Equivalency Diploma	1,233	11.6
More than 12	100	0.9
Unknown ²	4,104	38.6
Total	10,632	100.0 %

¹ Age at time of offense.

² Includes offenders with no evaluation on file and offenders with an evaluation, but no information on the last grade completed.

21.3 percent of 17-year-old offenders on probation were identified as needing treatment for frequent drug abuse.

As shown in Table 33, 1,469 of the 10,632 17-year-old offenders placed on probation from 2002 through 2006 were identified as needing treatment for frequent alcohol abuse, and 2,262 were identified as needing treatment for frequent drug abuse. Available data did not allow us to determine whether treatment was received by those identified as having a need.

Table 33

Alcohol and Drug Use by 17-Year-Old Offenders Placed on Probation¹
2002 through 2006

Use Category	Alcohol		Drug	
	Number of Offenders	Percentage of Total	Number of Offenders	Percentage of Total
No Abuse; No Interference with Functioning	2,335	22.0 %	2,114	19.9 %
Occasional Abuse; Some Disruption of Functioning	3,329	31.3	2,757	25.9
Frequent Abuse; Serious Disruption, Needs Treatment	1,469	13.8	2,262	21.3
Unknown ²	3,499	32.9	3,499	32.9
Total	10,632	100.0 %	10,632	100.0 %

¹ Age at time of offense.

² Assessment information unavailable.

63.5 percent of 17-year-old offenders on probation were identified as needing mental health services.

Mental health status evaluations conducted by DOC probation agents indicated that 4,531 of the 7,133 17-year-old offenders for whom an assessment was completed, or 63.5 percent, had mental health problems and should be referred for care. The most common mental health problems identified were destructive behavior toward others and interpersonal problems involving families. Available data did not allow us to determine if mental health referrals were made or whether offenders received treatment.

Judges routinely place conditions on probation, which may include attending school or obtaining full-time employment, receiving a drug and alcohol use assessment, attending anger management classes, participating in community service, and paying restitution. Judges in all five counties we visited expressed concerns about the services 17-year-olds receive while on probation. Some judges reported that 17-year-olds may not be on probation long enough to receive services, while others reported that 17-year-olds may receive minimal services because DOC's classification system gives priority to offenders who commit serious crimes.

Statewide data were not readily available on services received by 17-year-old offenders placed on probation.

The Division of Community Corrections may provide offenders under its supervision with services that cannot be received through any other source, such as a nonprofit organization or private insurance. In these cases, offenders may receive anger management, AODA treatment, counseling, and vocational programming services from providers under contract with the Division. The number of providers and types of services available vary throughout the state. Information was not readily available on the number of offenders who received services through a DOC-contracted provider.

Because of the variety of programming sources, it is difficult to determine whether offenders received services while under supervision. Of the 40 17-year-old offenders whose files we reviewed, 23 were ordered by the court or their DOC probation agent to be enrolled in education programs. At the time of our review, 2 of those had completed programs, 16 had participated or were enrolled, and 3 refused to participate. We were unable to determine the education program status for two offenders. Another five offenders participated in education programs while on probation without being required to do so by the court or their agents. Offenders who participated in education programs were typically enrolled in the school district or technical college district in which they resided.

Of the 40 offenders whose files we reviewed, 18 were ordered by the court or their DOC probation agent to complete an assessment of their alcohol and drug use. At the time of our review, 11 had complied with the order, 2 refused, and 2 had been assessed and participated in AODA treatment. We could not determine compliance for three offenders.

Costs of 17-Year-Old Offenders

The average daily cost for supervising offenders in the adult correctional system in FY 2005-06 was \$75.54 for the Division of Adult Institutions and \$5.67 for the Division of Community Corrections. Appendix 6 shows the average daily rate for each facility. Information was unavailable on whether costs were higher or lower for 17-year-olds than for other offenders. Using the average daily rates, we estimated the annual cost of supervising 17-year-old offenders in adult corrections ranged from \$22.6 million to \$25.4 million in 2006.

■ ■ ■ ■

Probation Revocation and Recidivism ■

The extent to which 17-year-old offenders successfully complete their sentences and avoid future criminal activity can be measured in several ways. We reviewed revocations of probation, which measure the extent to which terms of probation have been violated. We also analyzed recidivism rates of 17-year-old offenders released from prison and on probation by reviewing data on subsequent criminal activity maintained by DOC and reviewing Department of Justice data for 100 cases.

Revocation of Probation

Fewer than one-half of 17-year-old offenders successfully completed probation.

As of April 8, 2007, initial probation periods had ended for 74.5 percent of the 10,632 17-year-old offenders who were placed on probation from 2002 through 2006. As shown in Table 34, 47.4 percent completed their probation successfully. Probation was revoked for 47.2 percent of 17-year-old offenders because they violated a condition of probation, such as restrictions on travel and drug or alcohol use, or because they committed a new offense. However, most of those whose probation was revoked were not sent to prison, although they may have been required to serve time in jail or pay fines. This is primarily because an offender on probation for a misdemeanor conviction cannot be revoked to prison unless the offender commits a new offense that is a felony or the offender is deemed a habitual offender.

Table 34

Probation Outcomes for 17-Year-Old Offenders¹
As of April 8, 2007

Probation Outcome	Number	Percentage of Total
Successfully Completed	3,750	47.4%
Revoked, Not Sent to Prison	3,072	38.8
Revoked, Sent to Prison	668	8.4
Court Ordered Release ²	300	3.8
Unknown	86	1.1
Death	40	0.5
Total	7,916	100.0 %

¹ Offenders who were 17 at time of offense and began probation from 2002 through 2006.

² Includes offenders whose probation ended for reasons such as an appealed decision.

Recidivism

Recidivism is measured in a variety of ways.

Recidivism, or subsequent criminal behavior after conviction, may be measured in various ways, such as by counting arrests, court referrals, convictions, or corrections admissions over periods of time ranging from six months to four years. DOC defines adult recidivism as a new offense that results in a new correctional placement, including prison or probation, within three years of a prison release or probation placement. We analyzed data obtained from DOC to calculate recidivism rates for 17-year-old offenders and compared them to rates calculated by DOC for juvenile and other adult offenders. In addition, we conducted a detailed file review of 100 cases to determine the number of 17-year-old offenders who were released from prison or probation and were later arrested, convicted, or incarcerated for new offenses.

Recidivism of Offenders Released from Prison

60.4 percent of 17-year-old offenders released from prison in 2002 were re-convicted within 3 years.

As shown in Table 35, within three years of their release from prison in 2002, 60.4 percent of 106 17-year-old offenders committed new offenses that resulted in new correctional placements, including 51 who were sentenced to prison. Of those released from prison the following year, 49.4 percent were subsequently convicted of new offenses that resulted in new correctional placements, including 32 who were sentenced to prison.

Table 35

Three-Year Recidivism Rates for 17-Year-Old Offenders Released from Prison¹

Year of Release	Number of Releases ³	New Offenses Resulting in Correctional Placement ²		New Offenses Resulting in Prison	
		Number	Percentage of Releases	Number	Percentage of Releases
2002	106	64	60.4 %	51	48.1 %
2003	83	41	49.4	32	38.6

¹ Age at time of initial offense.

² Includes probation and prison placements. Does not include new offenses resulting in jail sentences, fines, or forfeitures.

³ Releases in which the offender had an opportunity to commit a new offense within three years of release from prison; excludes 15 offenders released in 2002 and 26 released in 2003 who died or were incarcerated without a new offense.

Table 36 shows the initial and subsequent offenses of the 83 17-year-old offenders who recidivated and were sent to prison within three years of a 2002 or 2003 release from prison. Subsequent offenses included a somewhat smaller proportion of crimes against persons and property crimes, and a larger proportion of drug and other crimes. Crimes against persons remained the largest offense category, representing 45.8 percent of all subsequent offenses.

Table 36

Offenses Committed by Reincarcerated 17-Year-Old Offenders¹
 Within Three Years of Initial Release from Prison in 2002 or 2003²

Offense Category	Initial Offense		Subsequent Offense	
	Number	Percentage of Total	Number	Percentage of Total
Crimes Against Persons	45	54.2%	38	45.8%
Drug Crimes	24	28.9	28	33.8
Other Crimes	1	1.2	9	10.8
Property Crimes	13	15.7	8	9.6
Traffic Crimes	0	0.0	0	0.0
Total	83	100.0%	83	100.0%

¹ Age at time of initial offense.

² Offenders who were initially released from prison in 2002 and 2003 and committed a new offense within three years that resulted in a new prison sentence.

17-year-old offenders released from prison were more likely to be reincarcerated than juveniles or older adults.

We compared recidivism for 17-year-old offenders to recidivism rates calculated by DOC for juvenile offenders and the entire adult population. Recidivism rates between the adult and juvenile systems are not directly comparable, because the Division of Juvenile Corrections tracks recidivism over two-year and four-year periods, rather than the three-year period tracked by the Division of Adult Institutions. Recidivism rates for juvenile offenders measure the percentage of juveniles released from DOC juvenile institutions who reoffend and are reincarcerated in either a juvenile institution or prison. As shown in Table 37, 17-year-old offenders released from prison had a higher reincarceration rate than either juveniles or the adult population. For example, among offenders released in 2002, 48.1 percent of 17-year-old offenders and 21.3 percent of all adult offenders were sent back to prison for offenses committed within three years of release, while 18.2 percent of juvenile offenders were reincarcerated within two years and 26.6 percent were reincarcerated within four years.

Table 37

**Recidivism Rates After Incarceration
2002 and 2003 Releases**

Age Group ¹	2002			2003		
	Releases in 2002	Subsequent Incarceration	Percentage of 2002 Releases	Releases in 2003	Subsequent Incarceration	Percentage of 2003 Releases
Juvenile Offenders (2 Years)	757	138	18.2%	672	93	13.8%
Juvenile Offenders (4 Years)	757	201	26.6	672	n/a	n/a
17-Year-Old Offenders (3 Years) ²	106	51	48.1	83	32	38.6
Adult Offenders (3 Years) ²	695	148	21.3	812	130	16.0

¹ Based on age at time of initial offense. For juvenile offenders, all initial releases are from juvenile institutions and subsequent incarcerations may be in juvenile institutions or prison. For 17-year-old and adult offenders, all releases and subsequent incarcerations are prison.

² Offenders with no prior prison or probation placements.

Recidivism of Offenders on Probation

36.9 percent of 17-year-old offenders placed on probation in 2002 were convicted of new offenses within 3 years.

For offenders on probation, DOC defines recidivism as a new offense that is committed within three years of placement on probation and results in an additional correctional placement, including probation or prison. As shown in Table 38, 36.9 percent of 17-year-old offenders placed on probation in 2002, and 34.9 percent of 17-year-old offenders placed on probation in 2003, were convicted of new offenses that resulted in additional correctional placements within three years. DOC does not distinguish between new probation placements and new prison sentences for offenders initially placed on probation.

Table 38

Three-Year Recidivism Rates for 17-Year-Old Offenders Placed on Probation¹

Year Placed on Probation	Number Placed on Probation ²	Number with Additional Correctional Placement Within Three Years ³	Percentage of Total
2002	2,230	823	36.9 %
2003	2,169	757	34.9

¹ Age at time of initial offense.

² Placements in which an offender had an opportunity to commit a new offense within three years of probation placement; excludes 105 offenders placed probation in 2002 and 95 placed on probation in 2003 who died or were incarcerated for reasons other than a new offense.

³ Includes probation or prison placements. Does not include new convictions resulting in jail sentences, fines, or forfeitures.

Table 39 shows the initial and subsequent offenses for the 1,580 17-year-old offenders who recidivated within three years of a 2002 or 2003 probation placement. Crimes against persons remained the largest crime category, representing 40.7 percent of the total subsequent offenses. However, it declined from 59.9 percent of initial offenses, while all other categories increased.

Table 39

**Offenses Committed by 17-Year-Old Offenders Placed on Probation¹
Within Three Years of Placement on Probation in 2002 or 2003**

Offense Category	Initial Offense		Subsequent Offense	
	Number	Percentage of Total	Number	Percentage of Total
Crimes Against Persons	946	59.9 %	643	40.7 %
Drug Crimes	261	16.5	311	19.7
Other Crimes	51	3.2	132	8.4
Property Crimes	322	20.4	489	30.9
Traffic Crimes	0	0.0	5	0.3
Total	1,580	100.0 %	1,580	100.0 %

¹ Age at time of initial offense.

As shown in Table 40, 17-year-old offenders had higher recidivism rates than the adult probation population as a whole. For example, of offenders placed on probation in 2002, 36.9 percent of 17-year-old offenders and 19.1 percent of all adult offenders were again sentenced to adult corrections within three years. The recidivism rates were similar for offenders placed on probation in 2003. Comparable information was not available for juvenile offenders.

Table 40

**Recidivism Rates of 17-Year-Old Offenders¹ and Adults on Probation
2002 or 2003 Placements**

	2002			2003		
	Placements in 2002	Subsequent Adult Correction Sentences ²	Percentage of 2002 Placements	Placements in 2003	Subsequent Adult Correction Sentences ²	Percentage of 2003 Placements
17-Year-Old Offenders ³	2,230	823	36.9 %	2,169	757	34.9 %
Adult Offenders ³	15,933	3,037	19.1	15,127	2,861	18.9

¹ Age at time of initial offense.

² Includes probation or prison placements. Does not include new convictions resulting in jail sentences or fines and forfeitures.

³ Offenders with no prior prison or probation placements.

Subsequent Criminal Activities of 17-Year-Old Offenders

To analyze more detailed information about the subsequent criminal activities of 17-year-old offenders—both those incarcerated in prison and those on probation—we reviewed additional data from the Department of Justice on 100 randomly chosen 17-year-old offenders whose initial correctional placements ended in 2002, including 50 who were released from prison and 50 whose probation ended. The 50 offenders released from prison were then supervised by the Division of Community Corrections under extended supervision or parole. Of the 50 offenders whose probation ended, 22 successfully completed their probation and 28 did not. Of those 28, 22 had their probation revoked for violating probation requirements but were not sent to prison, 3 had their probation revoked and were sent to prison, and 1 was released from probation through a court order.

We were unable to determine the release type for the remaining two offenders who did not successfully complete their probation.

68.0 percent of 17-year-old offenders released from prison were re-arrested within three years.

Table 41 shows the number of offenders in our sample arrested and convicted of new offenses by release type: 68.0 percent of 17-year-old offenders released from prison and 64.0 percent of those released from probation were arrested for new offenses within three years of their release. Nearly two-thirds of those arrests occurred within one year of release. Conviction rates for new offenses were somewhat lower: 44.0 percent of 17-year-old offenders released from prison and 56.0 percent of those released from probation were convicted of new offenses within three years of their release. Slightly more than one-half of those convictions occurred within one year of release.

Table 41

New Arrests and Convictions of Released 17-Year-Old Offenders¹
Within 3 Years of Release in 2002

Release Type	17-Year-Old Offenders	Arrested within Three Years		Convicted within Three Years	
		Number	Percentage of Total	Number	Percentage of Total
Prison	50	34	68.0 %	22	44.0 %
Probation	50	32	64.0	28	56.0

¹ Age at time of initial offense.

Table 42 shows the number of 17-year-old offenders in our sample who were sent to jail or prison after their initial release from prison or probation. One-half of those released from prison were later incarcerated, including 20 who were sent back to prison and 5 to jail. Of those released from probation, nearly one-half were later incarcerated, including 7 who were sent to prison and 17 who were sent to jail. Most of these incarcerations, 57.1 percent, occurred within one year of release from prison or probation. Incarcerations may occur more frequently than convictions because an offender supervised by the Division of Community Corrections on extended supervision or parole may be subject to conditions of supervision that allow incarceration without a new conviction.

Table 42

New Incarcerations of Released 17-Year-Old Offenders¹
 Within Three Years of Release in 2002

Release Type	17-Year-Old Offenders	Sent to Jail within Three Years		Sent to Prison within Three Years	
		Number	Percentage of Total	Number	Percentage of Total
Prison	50	5	10.0 %	20	40.0 %
Probation	50	17	34.0	7	14.0

¹ Age at time of initial offense; incarceration in jail or prison as a result of committing a new offense.

■ ■ ■ ■

Future Considerations ■

Wisconsin is currently 1 of 13 states that automatically place 17-year-olds in the adult criminal justice system. Legislation to do so was enacted in 1996, in response to concerns over juvenile violent crime. Legislation introduced in the 2005-06 legislative session would have returned 17-year-olds to the juvenile system, and a similar proposal is currently under consideration. We describe several programmatic and fiscal effects that will warrant careful consideration by the Legislature.

Proposals to Increase the Age of Criminal Jurisdiction

Wisconsin is 1 of 13 states to treat 17-year-olds as adults in the justice system.

Table 43 shows the age of criminal court jurisdiction in the states. However, it should also be noted that provisions regarding waiver and automatic transfer of juveniles to adult court vary widely across the states. Appendix 7 summarizes these provisions for selected midwestern states.

Table 43

Minimum Age of Criminal Court Jurisdiction in States¹

16 Years	17 Years	18 Years
Connecticut	Georgia	All other states
New York	Illinois	
North Carolina	Louisiana	
	Massachusetts	
	Michigan	
	Missouri	
	New Hampshire	
	South Carolina	
	Texas	
	Wisconsin	

¹ Age at which individuals are under the original jurisdiction of the criminal court. States have additional provisions regarding transfer of juveniles to criminal court.

Six other states have recently considered or enacted legislation to raise the age of criminal court jurisdiction. Over the past two years, such legislation has been introduced but not enacted in Illinois, Missouri, New Hampshire, New York, and North Carolina. Connecticut will raise its age of criminal court jurisdiction from 16 to 18 effective January 1, 2010, although 16- and 17-year-olds accused of the most serious classes of felonies will remain under criminal court jurisdiction. Rhode Island's FY 2007-08 budget moved 17-year-olds from juvenile to criminal court jurisdiction after supporters noted that incarceration in adult prison was less expensive, on average, than incarceration in a juvenile facility. However, Rhode Island enacted legislation to reverse the change in November 2007, after others questioned the cost-savings estimates.

**2005 Assembly Bill 82
proposed returning
17-year-olds to juvenile
court jurisdiction.**

In Wisconsin, 2005 Assembly Bill 82 would have raised the age of criminal court jurisdiction to 18 and returned most 17-year-olds to the jurisdiction of the juvenile court, but it was not acted on before the end of the 2005-06 legislative session. A concern raised by those opposed to 2005 Assembly Bill 82 was the fiscal effect it would have on counties. A similar proposal is currently under consideration.

Recent studies suggest recidivism rates are higher among young offenders in the adult system than in the juvenile system.

Child advocacy groups and other advocates of returning 17-year-olds to juvenile court jurisdiction cite research on adolescent brain development suggesting that while intellectual abilities are largely mature by 16 or 17, emotional and social maturity—including impulse control and susceptibility to peer influence—continue to develop into the early twenties. Advocates are also concerned that the adult system may be less effective than the juvenile system in rehabilitating young offenders. A 2007 report released by the national Centers for Disease Control reviewed available research on the effectiveness of transferring individuals under the age of 18 to the adult criminal justice system and concluded that recidivism rates were generally 33.7 percent higher for those in the adult system. In 2007, the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice found that 16- and 17-year-old offenders in New York, where the age of criminal court jurisdiction is 16, were 85.0 percent more likely to be re-arrested for violent crimes, 44.0 percent more likely to be re-arrested for property crimes, 35.0 percent less likely to be re-arrested for drug offenses, and 26.0 percent more likely to be reincarcerated for any offense than young offenders in New Jersey, where the age of criminal court jurisdiction is 18, after matching the two populations on key crime and socioeconomic indicators.

Most of the district attorneys and judges in Wisconsin we interviewed either believe that 17-year-olds should be returned to the juvenile system or did not express a strong opinion, although some noted that the most serious offenders should remain in the adult system. District attorneys in four of the five counties we visited indicated that the adult system can appropriately adjudicate and supervise 17-year-old offenders, including those charged with less serious offenses, using options such as deferred prosecution and expungement. In contrast, judges in the five counties were more likely than district attorneys to question the effectiveness of criminal court jurisdiction for 17-year-old offenders.

Although we could not directly compare the effectiveness of the juvenile and adult systems in Wisconsin, we found higher recidivism rates for 17-year-olds released from prison, as was shown in Table 37, although these offenders represent only a small percentage of those involved in the criminal justice system. As was shown in Table 40, recidivism rates for 17-year-old offenders were also higher than those for all adults on probation. However, a variety of factors may affect relative recidivism rates among age groups. For example, services available to both juvenile offenders and 17-year-olds on probation vary across the state. Young people also have higher rates of criminal activity than other adults. Because arrest rates are similar from the ages of 16 through 19, it is difficult

to determine whether patterns of criminal activity are attributable to specific programs or services, rather than the age of the offender.

Returning 17-Year-Olds to the Juvenile System

If the age of criminal court jurisdiction is raised to 18, 17-year-olds would return to the jurisdiction of the juvenile justice system. As in the adult corrections system, county and state agencies share responsibility for investigating, prosecuting, and supervising offenders, although counties have significantly more responsibility for operating and funding the juvenile system than the adult system.

Juveniles from the ages of 10 through 16 who are alleged to have violated state or federal law may be referred to the juvenile court for delinquency proceedings. A juvenile intake worker will review the evidence to determine a recommended course of action. Several counties we visited reported that relatively few of their delinquency referral cases result in delinquency petition filings in court. Instead, the referred cases are closed or handled through a variety of informal dispositions or deferred prosecution agreements.

An intake worker who determines that a juvenile should be referred to the court requests that the district attorney file a delinquency petition. The district attorney is also notified if the intake worker recommends dismissal or establishes a deferred prosecution agreement and may choose to override that decision by filing a delinquency petition. When a delinquency petition is filed, the juvenile may or may not be found delinquent by the court. Data obtained from the courts show that in 2006, 69.5 percent of 3,530 juvenile delinquency cases involving 16-year-olds resulted in findings of delinquency.

Most delinquent juveniles remain in their homes under court orders for supervision and treatment.

If a juvenile is found to be delinquent, the court issues a dispositional order outlining a plan of supervision, care, and treatment. The most serious juvenile offenders may be placed in a juvenile institution operated by DOC. However, most juveniles remain in their homes. Statewide circuit court data show that in 2006, 656 of 2,452 16-year-old juveniles found delinquent, or 26.8 percent, received out-of-home placements, including 229 (9.3 percent) placed in juvenile institutions and 427 (17.4 percent) placed in residential care centers, group homes, foster homes, or other out-of-home placements. Appendix 8 includes information on juveniles entering institutions during our review period.

Dispositional orders may also require other conditions and services. Each county is responsible for developing and delivering its services directly or through contracts with private agencies, and for funding

them using state and local resources. Juveniles under county supervision, either through informal dispositions or court orders, are supervised by caseworkers and receive services such as monitoring, individual or family counseling, substance abuse treatment, and anger management treatment. Service availability varies among the counties. However, because there are no statewide service delivery or reporting requirements, and counties are responsible for funding their selected services, we could not readily quantify the variation.

Under current law, some juvenile offenders are transferred to the criminal court.

If the Legislature chooses to increase the age of criminal court jurisdiction to 18, some 17-year-old offenders would remain in the adult system because they would be subject to the same statutory provisions that currently transfer certain juvenile offenders ages 10 through 16 from the juvenile court to the criminal court. For example:

- 10- through 16-year-olds who commit certain very serious offenses, including homicide and assault while in a correctional facility, are automatically transferred to criminal court;
- 10- through 16-year-olds who have previously been convicted in criminal court are automatically tried in criminal court for any future offenses;
- 14- through 16-year-olds who commit certain serious offenses, including sexual assault, armed robbery, and drug manufacturing, can be waived to criminal court via a petition filed by the prosecutor; and
- 15- and 16-year-olds who commit any violation of state law can be waived to criminal court via a petition filed by the prosecutor.

Appendix 9 includes a more detailed description of these provisions.

Prosecutors and judges have considerable discretion in deciding whether juveniles should be prosecuted in juvenile or criminal court and in issuing the dispositional order or sentence. Therefore, the effect of moving 17-year-olds back to the juvenile system will likely vary across counties, because it will depend on how local officials choose to prosecute and sentence 17-year-old offenders. If counties choose to waive most 17-year-old offenders, including those alleged to have committed less-serious offenses, to criminal court, 17-year-olds would likely receive sentences similar to those they currently receive. On the other hand, 17-year-olds prosecuted in the juvenile

system could receive a variety of out-of-home placements, including placements in juvenile institutions, as well as in-home supervision and services.

Estimated Fiscal Effects of Returning 17-Year-Olds to the Juvenile System

Counties are responsible for most of the costs of juvenile corrections.

Returning 17-year-olds to the juvenile system would have fiscal effects for both counties and the State. The most significant fiscal effects would be on counties, which are responsible for most of the costs of juvenile corrections, including the costs of programs they operate, services provided by contractors, and their placements in the State's juvenile institutions and certain other facilities and programs. The State funds most adult corrections, as well as the costs associated with juveniles who have been adjudicated in the juvenile court under the Serious Juvenile Offender program, which was created under 1995 Wisconsin Act 27 and may be applied to juveniles who commit delinquent acts equivalent to certain serious felonies.

Youth Aids funding to counties for juvenile corrections totaled \$88.3 million in FY 2006-07.

Counties' primary source of funding from the State for juvenile corrections is Youth Aids, which totaled \$88.3 million in FY 2006-07, including \$85.8 million in general purpose revenue and \$2.4 million in federal funds. Most of that funding—88.7 percent in FY 2006-07—is distributed to counties based primarily on a statutory three-factor formula that was developed in 1981 and includes county data from the late 1970s on juvenile population, juvenile arrests, and juvenile institution placements. The remaining 11.3 percent of Youth Aids funding is distributed based on several different allocation formulas, including funding for AODA programs; supplements to small counties with relatively high juvenile arrest rates; and adjustments based on more recent juvenile population, arrest, and placement data.

Youth Aids funding is distributed to counties on a calendar year basis. As shown in Table 44, funding has remained relatively steady from 2002 through 2006. Appendix 10 includes Youth Aids allocations by county for 2002 through 2006 and the initial contract amounts for 2007.

Table 44

Youth Aids Funding
2002 through 2007

Year	Total Youth Aids Funding
2002	\$88,100,000
2003	89,000,000
2004	88,700,000
2005	88,900,000
2006	88,900,000
2007 ¹	86,200,000

¹ Does not include certain supplements and adjustments that are made at or after the end of the calendar year.

Youth Aids accounted for approximately 43.7 percent of reported county juvenile corrections spending in 2005.

As shown in Table 45, we estimate counties spent \$203.4 million on juvenile offenders in 2005, with Youth Aids funding approximately 43.7 percent of this total. We estimated these amounts using actual Youth Aids contract amounts and data that counties reported to the Department of Health and Family Services on their total costs for juvenile offenders, including the distribution by revenue source. These data, which are not audited by either the Department of Health and Family Services or DOC, may include reporting inconsistencies and do not include detail on the number of individuals served or services provided; however, they were the best data on funding sources other than Youth Aids available to us at the time of our fieldwork.

Table 45

**Estimated County Spending for Juvenile Corrections
2005**

Funding Source	Amount	Percentage of Total
Youth Aids	\$ 88,850,800	43.7%
County Revenue ¹	70,135,500	34.5
Other Revenue ²	44,403,100	21.8
Total	\$203,389,400	100.0%

¹ Includes tax levy and shared revenue.

² Includes other state or federal funds, such as Medical Assistance and Community Aids, as well as client fees, grants, and other revenue sources.

Returning 17-year-olds to the juvenile system would have fiscal effects at all levels of the juvenile and adult judicial and correctional systems. DOC prepared a fiscal estimate for 2005 Assembly Bill 82 but did not quantify the fiscal effects on either the State or local governments. DOC indicated that while some offenders would be shifted from adult prisons to juvenile institutions and from adult probation to county juvenile supervision, the number of offenders who would be affected was unknown. DOC's fiscal estimate did note that per capita costs in the juvenile system were typically higher than for comparable services in the adult system. For example:

- DOC estimated that the annual cost to house an adult in a county jail is approximately \$18,000, while the estimated annual cost to house a juvenile in a secure detention facility—where juveniles can be temporarily held under various circumstances—is approximately \$55,000;
- the annual cost of incarcerating an inmate in adult prison averaged \$27,600 in FY 2005-06, while the annual cost to incarcerate a juvenile in a juvenile institution was \$74,100; and
- the annual per capita cost to supervise an adult on probation was \$2,100 in FY 2005-06, while the annual per capita cost to supervise a juvenile on state aftercare supervision was \$11,700.

Reliable statewide data on juvenile caseloads and costs are not readily available.

However, calculating a reliable estimate of the total fiscal effect is difficult for a number of reasons:

- Reliable and consistent data on juvenile referrals, caseloads, and the cost of services, either across counties or statewide, are not readily available.
- Decisions made by individual law enforcement officials, county juvenile intake workers, prosecutors, and judges in each of 72 counties affect offender processing in the legal and correctional systems, and county boards make annual decisions regarding how to fund and operate their juvenile systems.
- Services and funding for juvenile corrections vary across counties, so the effects of the change would vary across counties.

The most significant fiscal effects would likely be on county-level juvenile correctional services. We used a variety of methods to estimate the amount of additional funding that would be needed to maintain the current level of juvenile correctional services if 17-year-olds were returned to the juvenile system. First, we based our estimate of the number of 17-year-olds who would be entering the juvenile justice system on the entry rate of 16-year-olds into the system, because we assumed cases involving 17-year-olds would be handled most similarly to cases involving 16-year-olds, including the percentage who are waived to adult court and the percentage who are found delinquent. We applied this estimated percentage caseload increase to estimated statewide costs for providing services to juvenile offenders in 2005, which was the most recent year for which data were available during our fieldwork. We refined our estimate by:

- adjusting our cost estimates based on differences in arrest rates for 16- and 17-year-olds;
- adding the projected costs for 16-year-old offenders who are likely to remain in the juvenile system rather than move into the adult system after turning 17; and
- projecting, based on placement rates for 16-year-olds, the number of 17-year-olds who would receive various services through out-of-home placements and estimating the cost of those types of placements and supervision.

We estimate that returning 17-year-olds to the juvenile system could cost \$53.5 million to \$82.4 million annually.

Using this methodology, we estimate that returning 17-year-olds to the juvenile justice system could initially result in county juvenile corrections cost increases of between \$53.5 million and \$82.4 million per year. As noted, the actual fiscal effect would depend on decisions made by officials at each stage of the juvenile and the criminal justice process. The cost increase could be lower than we estimated if significant numbers of 17-year-olds were waived to adult court, or if judges made more extensive use of the Serious Juvenile Offender program, which is entirely state-funded. On the other hand, the cost increase could be higher if 17-year-olds required higher-cost placements and services than other juveniles. Counties have expressed concern that if 17-year-olds are returned to the juvenile system without a sufficient increase in state funding, the number and extent of services provided to other juveniles in the system would suffer as available resources are distributed over a larger population.

Some cost reductions could result from moving inmates from contracted facilities to prison beds currently used for 17-year-old offenders.

Increased costs to county-level juvenile corrections could be offset to some extent by cost savings in the adult correctional system. However, many costs associated with operating state prisons are fixed, and as of October 2007, prisons in Wisconsin were approximately 585 inmates over capacity, and an additional 645 inmates were being held at contracted federal and county institutions. DOC has estimated that if the number of 17-year-old inmates were reduced by one-half (approximately 300) and the reduction used to offset current overpopulation in the prisons, approximately \$1.4 million annually would be saved in spending for food, health care, clothing, and other variable costs. If prisons remained overpopulated and inmates were instead removed from contracted federal or county institutions, annual savings would equal approximately \$8.5 million. These estimates assume that one-half of all 17-year-old offenders who would have been sentenced to prison under current law would instead be processed in the juvenile system; however, because the crimes committed by 17-year-olds sentenced to prison are typically more serious, the actual reduction in the prison population may be lower. It should also be noted that a reduction in the prison population would occur over a period of several years, because 17-year-old offenders already serving sentences would remain in prison.

Costs associated with supervision of offenders on probation are not fixed to the same degree as prison costs, because the main cost of probation supervision is staffing. However, as of September 2007, DOC officials reported understaffing by approximately 79 probation agents. If the number of 17-year-old offenders on probation were reduced by approximately 3,600 annually, as we estimate, DOC officials estimate understaffing would be reduced to approximately 15 officers. DOC officials estimate this could result in a savings of

approximately \$2.4 million in overtime costs, although they noted that only \$1.2 million in overtime costs is budgeted for FY 2007-08. As with prisons, any reduction in population would occur over a period of several years, although because probation sentences are typically shorter than prison sentences, savings could be realized somewhat sooner.

The effects on prosecutors and the courts of returning 17-year-olds to juvenile court are unclear.

Other agencies in the justice system would also be affected by a change in the age of criminal court jurisdiction, although the effects are less clear. Two of the five district attorneys with whom we spoke indicated that their workloads would not be affected, while three said that their workloads would increase because the juvenile system requires additional preparation time, petitions, and hearings. Judges' assessments were similarly mixed. One said that if 17-year-olds were in the juvenile system, the number of required court appearances could be reduced if cases were diverted without charges being filed, and another noted that judges must decide only whether a juvenile is delinquent, which is less time-consuming than ruling on each criminal act. On the other hand, two judges said that it takes more time to become familiar with juvenile cases, and juvenile hearings take slightly longer. It should also be noted that cases involving waivers of 17-year-olds from juvenile to adult court would require both waiver hearings in juvenile court and the usual proceedings in criminal court, as they currently do for 14- through 16-year-olds who are subject to waiver.

The fiscal effect on both county secure juvenile detention facilities and county jails also could vary. At two of the county jails we visited, officials said that because 17-year-olds constitute a small percentage of inmates, the jails' fixed costs would not change, so any effect on overall costs would be minimal. On the other hand, an official at a county jail that currently sends inmates to other counties said the jail would save some money by reducing the number of out-of-county placements, while an official at a county jail that currently houses inmates from other counties said the jail could generate some additional revenue if 17-year-olds were no longer held in the jail.

It should be noted that returning 17-year-olds to the juvenile system could result in long-term savings if recidivism rates decline. However, whether this will occur and the magnitude of any effects cannot be readily determined.

Other Issues for Legislative Consideration

Current proposals would return 17-year-olds to the jurisdiction of the juvenile court but leave all other provisions for juvenile and

criminal court jurisdiction in place. Some have suggested that an alternative option could include a more limited change or phased implementation, such as returning 17-year-olds to the juvenile system for local ordinance violations or misdemeanor offenses while retaining criminal court jurisdiction over felony offenders. Similarly, statutes governing when juveniles are automatically transferred or eligible to be waived to criminal court could be modified to expand criminal court jurisdiction over certain serious offenses, either specifically for 17-year-olds or for all juveniles currently subject to those statutes. Within the juvenile system, the Serious Juvenile Offender program—which keeps the offender under supervision for a longer period of time—could be expanded to cover a broader range of offenses.

Legislation in other states takes partial or incremental approaches to returning 17-year-olds to juvenile court.

Legislation in some of the other states considering changes takes these partial or incremental approaches. For example, Connecticut raised the general age of criminal court jurisdiction to 18 beginning in 2010, but its criminal courts will retain jurisdiction over 16- and 17-year-olds accused of the most serious classes of felonies, and Connecticut prosecutors can seek criminal prosecution for juveniles accused of other felonies. Legislation introduced in Illinois would, beginning July 1, 2008, raise the age of criminal court jurisdiction to 18 for misdemeanor offenses and establish a task force to make recommendations regarding extending juvenile court jurisdiction to 17-year-olds charged with felony offenses. One bill introduced in Missouri in 2006 would raise the age of criminal court jurisdiction to 18 for all offenses, while a separate bill introduced in 2007 would raise the age only for municipal ordinance violations.

Some other states have also conducted or proposed efforts to better understand the effects and costs of raising the age of criminal jurisdiction to 18. The legislation enacted in Connecticut and legislation proposed in North Carolina were both based on recommendations from study committees or commissions. As noted, legislation in Illinois would create a task force to make recommendations regarding jurisdiction in felony cases, along with time lines and a funding structure to accommodate expansion of the jurisdiction of the Illinois Juvenile Court to include 17-year-olds. North Carolina's proposed legislation would similarly create a task force to study the legal, organizational, and fiscal impact of the change. In New Hampshire, a legislative subcommittee was formed to study the effects of proposed legislation, and it has begun calculating costs or savings from the proposal that would be incurred by each affected department. However, bills in most of the states do not include complete fiscal estimates.

In deliberating potential changes to court jurisdiction for 17-year-olds in Wisconsin, the Legislature could consider:

- retaining adult criminal court jurisdiction over 17-year-olds;
- changing the age of criminal court jurisdiction to 18, and thereby returning 17-year-olds to the jurisdiction of the juvenile court;
- making incremental change, such as retaining criminal court jurisdiction for 17-year-old felony offenders or expanding the Serious Juvenile Offender program so juveniles can remain under supervision for a longer time period; or
- delaying implementation of any change to allow DOC, the courts, and counties time to prepare for the programmatic and fiscal effects of the change.

■ ■ ■ ■

Appendix 1

2005 Wisconsin Population Data

Table 1.1

Age Groups		
	Age Group Population	Percentage of Total
Under 14	979,117	17.6%
14-16	240,524	4.3
17	81,575	1.5
18-20	248,010	4.5
21 and older	4,010,469	72.1
Total	5,559,695	100.0%

Table 1.2

Gender and Race/Ethnicity of 17-Year-Olds

Description	Number	Percentage of Total
Gender		
Male	41,797	51.2%
Female	39,778	48.8
Total	81,575	100.0%
Race/Ethnicity		
White	67,416	82.7%
African-American	6,913	8.5
Hispanic/Latino	3,949	4.8
Asian or Pacific Islander	2,375	2.9
American Indian	922	1.1
Total	81,575	100.0%

Table 1.3

17-Year-Old Population by County

County	Number	Percentage of Total
Adams	213	0.3%
Ashland	243	0.3
Barron	659	0.8
Bayfield	211	0.3
Brown	3,426	4.2
Buffalo	193	0.2
Burnett	202	0.3
Calumet	663	0.8
Chippewa	903	1.1
Clark	537	0.7
Columbia	752	0.9
Crawford	242	0.3
Dane	6,702	8.2
Dodge	1,254	1.5
Door	359	0.4
Douglas	591	0.7
Dunn	840	1.0
Eau Claire	1,735	2.1
Florence	65	0.1
Fond du Lac	1,450	1.8
Forest	200	0.2
Grant	1,019	1.3
Green	468	0.6
Green Lake	272	0.3
Iowa	352	0.4
Iron	95	0.1
Jackson	251	0.3
Jefferson	1,163	1.4
Juneau	382	0.5
Kenosha	2,365	2.9
Kewaunee	333	0.4
La Crosse	1,871	2.3
Lafayette	226	0.3
Langlade	273	0.3
Lincoln	426	0.5
Manitowoc	1,224	1.5

County	Number	Percentage of Total
Marathon	1,918	2.4%
Marinette	577	0.7
Marquette	206	0.3
Menominee	89	0.1
Milwaukee	13,149	16.1
Monroe	678	0.8
Oconto	542	0.7
Oneida	486	0.6
Outagamie	2,615	3.2
Ozaukee	1,385	1.7
Pepin	115	0.1
Pierce	765	0.9
Polk	627	0.8
Portage	1,264	1.6
Price	223	0.3
Racine	2,843	3.5
Richland	295	0.4
Rock	2,212	2.7
Rusk	218	0.3
Sauk	853	1.0
Sawyer	235	0.3
Shawano	601	0.7
Sheboygan	1,548	1.9
St. Croix	1,086	1.3
Taylor	290	0.4
Trempealeau	378	0.5
Vernon	441	0.5
Vilas	249	0.3
Walworth	1,359	1.7
Washburn	237	0.3
Washington	1,784	2.2
Waukesha	5,447	6.7
Waupaca	759	0.9
Waushara	391	0.5
Winnebago	2,462	3.0
Wood	1,088	1.3
Total	81,575	100.0%

Appendix 2

County Criminal Case Filings Against 17-Year-Olds¹
2002 through 2006

County	2002	2003	2004	2005	2006
Adams	56	46	22	46	44
Ashland	49	24	23	29	40
Barron	39	49	45	29	57
Bayfield	22	37	22	34	31
Brown	175	228	196	197	205
Buffalo	23	19	9	11	28
Burnett	28	38	34	14	25
Calumet	21	43	30	20	33
Chippewa	117	55	63	67	117
Clark	43	36	35	45	32
Columbia	119	94	90	110	86
Crawford	16	7	7	8	8
Dane	519	485	386	390	424
Dodge	109	83	96	87	86
Door	21	32	27	31	34
Douglas	60	62	53	55	56
Dunn	47	48	46	52	46
Eau Claire	202	162	169	154	165
Florence	13	6	6	6	7
Fond du Lac	80	104	100	98	77
Forest	25	29	27	21	32
Grant	40	32	69	38	59
Green	32	50	45	39	34
Green Lake	19	52	33	27	38
Iowa	39	35	36	23	20
Iron	3	7	6	8	–
Jackson	21	13	15	42	29
Jefferson	103	131	125	84	159
Juneau	43	40	40	43	49
Kenosha	200	258	215	250	258
Kewaunee	28	29	14	28	36
La Crosse	163	157	145	134	138
Lafayette	11	16	8	25	11
Langlade	34	38	31	37	56

County	2002	2003	2004	2005	2006
Lincoln	50	38	55	62	74
Manitowoc	127	117	105	105	120
Marathon	217	246	243	189	216
Marinette	44	29	34	46	24
Marquette	32	35	34	25	21
Menominee	5	3	1	4	1
Milwaukee	1,009	1,039	967	936	854
Monroe	72	107	53	71	82
Oconto	28	42	29	33	41
Oneida	75	69	67	79	65
Outagamie	169	183	223	229	226
Ozaukee	66	60	57	51	60
Pepin	17	8	4	5	8
Pierce	42	34	18	29	32
Polk	76	65	43	30	58
Price	13	6	16	20	17
Racine	298	263	334	356	330
Richland	11	17	31	22	24
Rock	314	273	314	341	253
Rusk	29	18	15	11	13
Sauk	121	89	97	104	94
Sawyer	54	41	37	68	38
Shawano	80	79	72	104	76
Sheboygan	153	187	174	172	203
St. Croix	46	95	97	91	106
Taylor	13	12	10	12	25
Trempealeau	42	30	32	16	22
Vernon	5	18	15	17	12
Vilas	53	42	39	43	42
Walworth	53	78	58	72	90
Washburn	29	19	25	15	28
Washington	103	107	107	109	90
Waukesha	308	323	257	273	230
Waupaca	50	55	39	46	52
Waushara	42	35	39	24	28
Winnebago	184	162	183	172	205
Wood	136	139	112	119	177
Total	6,686	6,708	6,304	6,383	6,557

¹ Age at time of alleged offense.

Appendix 3

County Sentencing Practices in Felony Cases Filed Against 17-Year-Olds¹

February 2003 through January 2007

County	Cases	Prison		Probation		Jail		Other	
		Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases
Adams	7	1	14.3%	6	85.7%	–	–	–	–
Ashland	10	–	–	7	70.0	3	30.0%	–	–
Barron	19	1	5.3	14	73.6	1	5.3	3	15.8%
Bayfield	11	–	–	9	81.8	–	–	2	18.2
Brown	126	4	3.2	107	84.9	12	9.5	3	2.4
Buffalo	6	–	–	5	83.3	1	16.7	–	–
Burnett	5	2	40.0	3	60.0	–	–	–	–
Calumet	13	–	–	13	100.0	–	–	–	–
Chippewa	44	–	–	35	79.6	2	4.5	7	15.9
Clark	16	–	–	15	93.7	–	–	1	6.3
Columbia	38	–	–	25	65.8	2	5.3	11	28.9
Crawford	6	–	–	6	100.0	–	–	–	–
Dane	169	6	3.5	139	82.2	18	10.7	6	3.6
Dodge	34	2	5.9	29	85.3	1	2.9	2	5.9
Door	18	–	–	18	100.0	–	–	–	–
Douglas	23	–	–	14	60.9	7	30.4	2	8.7
Dunn	17	–	–	16	94.1	–	–	1	5.9
Eau Claire	64	–	–	54	84.4	5	7.8	5	7.8
Florence	3	–	–	3	100.0	–	–	–	–
Fond du Lac	46	4	8.7	36	78.3	2	4.3	4	8.7
Forest	12	1	8.3	8	66.7	–	–	3	25.0
Grant	34	1	2.9	32	94.2	–	–	1	2.9

County	Cases	Prison		Probation		Jail		Other	
		Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases
Green	15	–	–	14	93.3%	–	–	1	6.7%
Green Lake	17	2	11.8%	13	76.4	2	11.8%	–	–
Iowa	7	–	–	7	100.0	–	–	–	–
Iron	1	–	–	1	100.0	–	–	–	–
Jackson	24	–	–	22	91.7	2	8.3	–	–
Jefferson	58	2	3.4	48	82.8	6	10.4	2	3.4
Juneau	31	3	9.7	22	71.0	1	3.2	5	16.1
Kenosha	138	12	8.7	113	81.9	4	2.9	9	6.5
Kewaunee	9	–	–	6	66.7	1	11.1	2	22.2
La Crosse	49	5	10.2	37	75.5	4	8.2	3	6.1
Lafayette	10			9	90.0	–	–	1	10.0
Langlade	13	1	7.7	8	61.5	–	–	4	30.8
Lincoln	17	3	17.6	11	64.8	–	–	3	17.6
Manitowoc	41	–	–	29	70.7	12	29.3	–	–
Marathon	107	4	3.7	97	90.7	3	2.8	3	2.8
Marinette	24	8	33.3	11	45.8	5	20.9	–	–
Marquette	6	1	16.7	4	66.6	1	16.7	–	–
Menominee	1	–	–	–	–	–	–	1	100.0
Milwaukee	682	164	24.0	457	67.0	60	8.8	1	0.2
Monroe	47	3	6.4	39	83.0	3	6.4	2	4.2
Oconto	18	–	–	17	94.4	1	5.6	–	–
Oneida	27	–	–	23	85.2	1	3.7	3	11.1
Outagamie	115	8	7.0	102	88.7	3	2.6	2	1.7
Ozaukee	25	1	4.0	23	92.0	1	4.0	–	–
Pepin	1	–	–	1	100.0	–	–	–	–
Pierce	16	–	–	15	93.8	1	6.2	–	–

County	Cases	Prison		Probation		Jail		Other	
		Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases
Polk	17	–	–	12	70.6%	1	5.9%	4	23.5%
Price	5	–	–	5	100.0	–	–	–	–
Racine	168	40	23.8%	112	66.7	12	7.1	4	2.4
Richland	9	–	–	6	66.7	1	11.1	2	22.2
Rock	143	4	2.8	118	82.5	15	10.5	6	4.2
Rusk	7	–	–	7	100.0	–	–	–	–
Sauk	43	3	7.0	31	72.1	5	11.6	4	9.3
Sawyer	34	1	2.9	31	91.2	2	5.9	–	–
Shawano	49	7	14.3	34	69.4	7	14.3	1	2.0
Sheboygan	77	–	–	68	88.3	7	9.1	2	2.6
St. Croix	24	–	–	21	87.5	–	–	3	12.5
Taylor	4	–	–	4	100.0	–	–	–	–
Trempealeau	5	–	–	4	80.0	–	–	1	20.0
Vernon	7	1	14.3	6	85.7	–	–	–	–
Vilas	14	–	–	10	71.4	–	–	4	28.6
Walworth	65	4	6.2	54	83.1	6	9.2	1	1.5
Washburn	5	–	–	4	80.0	–	–	1	20.0
Washington	57	1	1.8	46	80.7	8	14.0	2	3.5
Waukesha	108	8	7.4	91	84.3	5	4.6	4	3.7
Waupaca	22	–	–	18	81.8	3	13.6	1	4.6
Waushara	8	–	–	8	100.0	–	–	–	–
Winnebago	58	2	3.5	55	94.8	–	–	1	1.7
Wood	54	1	1.8	44	81.5	5	9.3	4	7.4
Total	3,203	311	9.7	2,512	78.4	242	7.6	138	4.3

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

Appendix 4

Sentencing in Cases Filed as Misdemeanors and Criminal Traffic

Table 4.1

Offense and Age Group of Sentenced Individuals in Cases Filed as Misdemeanors¹
February 2003 through January 2007

Offense Category	17		18-20		21 and Older	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Crimes Against Persons	776	8.2%	2,149	7.3%	14,574	10.4%
Drug Crimes	2,047	21.6	6,756	23.1	16,340	11.7
Other Crimes	609	6.4	2,137	7.3	11,913	8.5
Property Crimes	2,255	23.8	6,982	23.8	28,286	20.2
Public Order Crimes	3,578	37.8	10,311	35.2	59,433	42.4
Status Crimes	3	<0.1	3	<0.1	2	<0.1
Traffic Crimes	167	1.8	839	2.9	9,154	6.5
Unknown	42	0.4	114	0.4	478	0.3
Total	9,477	100.0%	29,291	100.0%	140,180	100.0%

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

Table 4.2

Sentences by Age Group in Cases Filed as Misdemeanors¹
February 2003 through January 2007

Sentence Type	17		18–20		21 and Older	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Prison ²	5	<0.1%	97	0.3%	1,058	0.8%
Probation ³	4,189	44.2	9,863	33.7	39,762	28.4
Jail	1,390	14.7	5,712	19.5	36,649	26.1
Other ⁴	3,893	41.1	13,619	46.5	62,711	44.7
Total	9,477	100.0%	29,291	100.0%	140,180	100.0%

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² Under statutory habitual offender provisions, courts may impose prison sentences for misdemeanor offenses.

³ Jail time may be required as a condition of probation.

⁴ Primarily fines and forfeitures; also includes suspension of driver license and restitution payments.

Table 4.3

Sentence Length by Age Group in Cases Filed as Misdemeanors¹
February 2003 through January 2007

Age Group	Prison ²	Probation ³	Jail
17	0.8	1.5	0.1
18–20	1.2	1.5	0.1
21 and Older	1.2	1.5	0.2
All Ages	1.2	1.5	0.1

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² Under statutory habitual offender provisions, courts may impose prison sentences for misdemeanor offenses.

³ Jail time may be required as a condition of probation.

Table 4.4

County Sentencing Practices in Misdemeanor Cases Filed Against 17-Year-Old Offenders¹
February 2003 through January 2007

County	Cases	Probation		Jail		Other	
		Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases
Adams	87	31	35.6%	7	8.1%	49	56.3%
Ashland	47	30	63.8	5	10.7	12	25.5
Barron	63	30	47.6	8	12.7	25	39.7
Bayfield	40	12	30.0	7	17.5	21	52.5
Brown	287	182	63.4	39	13.6	66	23.0
Buffalo	33	20	60.6	1	3.0	12	36.4
Burnett	38	15	39.5	2	5.3	21	55.2
Calumet	42	28	66.7	4	9.5	10	23.8
Chippewa	113	40	35.4	–	–	73	64.6
Clark	59	23	39.0	5	8.5	31	52.5
Columbia	138	27	19.5	19	13.8	92	66.7
Crawford	11	9	81.8	1	9.1	1	9.1
Dane	541	229	42.3	119	22.0	193	35.7
Dodge	77	38	49.3	15	19.5	24	31.2
Door	60	29	48.3	4	6.7	27	45.0
Douglas	103	41	39.8	10	9.7	52	50.5
Dunn	67	21	31.3	0	0.0	46	68.7
Eau Claire	270	55	20.4	14	5.2	201	74.4
Florence	5	1	20.0	2	40.0	2	40.0
Fond du Lac	143	66	46.1	16	11.2	61	42.7
Forest	29	10	34.5	2	6.9	17	58.6
Grant	76	37	48.7	5	6.6	34	44.7
Green	46	11	23.9	–	–	35	76.1
Green Lake	55	32	58.2	10	18.2	13	23.6
Iowa	57	21	36.8	1	1.8	35	61.4
Iron	4	3	75.0	–	–	1	25.0
Jackson	34	23	67.6	4	11.8	7	20.6
Jefferson	134 ²	48	35.8	16	11.9	69	51.5
Juneau	36	10	27.8	2	5.5	24	66.7
Kenosha	366 ²	202	55.2	33	9.0	130	35.5
Kewaunee	37	21	56.8	4	10.8	12	32.4
La Crosse	187	81	43.3	18	9.6	88	47.1
Lafayette	18	9	50.0	1	5.6	8	44.4
Langlade	54	9	16.7	6	11.1	39	72.2
Lincoln	56	15	26.8	10	17.8	31	55.4
Manitowoc	186	67	36.0	31	16.7	88	47.3

County	Cases	Probation		Jail		Other	
		Number	Percentage of County Cases	Number	Percentage of County Cases	Number	Percentage of County Cases
Marathon	349	167	47.9%	15	4.2%	167	47.9%
Marinette	44	8	18.2	7	15.9	29	65.9
Marquette	18	7	38.9	–	–	11	61.1
Menominee	7	–	–	–	–	7	100.0
Milwaukee	1,138 ²	693	60.9	348	30.6	96	8.4
Monroe	101	28	27.7	14	13.9	59	58.4
Oconto	52	36	69.2	3	5.8	13	25.0
Oneida	121	50	41.3	10	8.3	61	50.4
Outagamie	267	178	66.7	20	7.5	69	25.8
Ozaukee	111	72	64.9	8	7.2	31	27.9
Pepin	6	5	83.3	–	–	1	16.7
Pierce	39	25	64.1	–	–	14	35.9
Polk	53	22	41.5	4	7.6	27	50.9
Price	15	12	80.0	–	–	3	20.0
Racine	634 ²	159	25.1	213	33.6	261	41.2
Richland	34	17	50.0	4	11.8	13	38.2
Rock	446	156	35.0	76	17.0	214	48.0
Rusk	12	8	66.6	2	16.7	2	16.7
Sauk	177	40	22.6	36	20.3	101	57.1
Sawyer	76	26	34.2	16	21.1	34	44.7
Shawano	182 ²	58	31.9	45	24.7	78	42.9
Sheboygan	363	160	44.1	25	6.9	178	49.0
St. Croix	150	24	16.0	4	2.7	122	81.3
Taylor	11	5	45.5	1	9.1	5	45.5
Trempealeau	51	25	49.0	1	2.0	25	49.0
Vernon	16	7	43.7	1	6.3	8	50.0
Vilas	75	27	36.0	2	2.7	46	61.3
Walworth	91	48	52.7	16	17.6	27	29.7
Washburn	42	10	23.8	1	2.4	31	73.8
Washington	171	66	38.6	27	15.8	78	45.6
Waukesha	416	182	43.8	16	3.8	218	52.4
Waupaca	63	35	55.6	5	7.9	23	36.5
Waushara	64	41	64.1	6	9.4	17	26.5
Winnebago	290	190	65.5	26	9.0	74	25.5
Wood	193	76	39.4	17	8.8	100	51.8
Total	9,477²	4,189	44.2	1,390	14.7	3,893	41.1

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² County total includes one misdemeanor case for which the offender was sentenced to prison. A total of five such cases statewide accounted for 0.1 percent of all misdemeanor case sentences.

Table 4.5

Gender of Sentenced 17-Year-Olds in Cases Filed as Misdemeanors¹
February 2003 through January 2007

Sentence Type	Male		Female		Total	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Prison	5	0.1%	0	–	5	<0.1%
Probation	3,301	45.5	832	39.7%	4,189 ²	44.2
Jail	1,197	16.5	184	8.8	1,390 ²	14.7
Other	2,750	37.9	1,077	51.5	3,893 ²	41.1
Total	7,253	100.0%	2,093	100.0%	9,477²	100.0%

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² The offender's gender was unknown for 131 cases, including 56 with probation terms, 9 with jail sentences, and 66 with other sentences.

Table 4.6

Race/Ethnicity of Sentenced 17-Year-Olds in Cases Filed as Misdemeanors¹
February 2003 through January 2007

Sentence Type	African-American	Hispanic/Latino	White	Other ²	Total
Prison	0.2%	–	–	0.1%	<0.1%
Probation	45.6	37.8%	44.1%	43.7	44.2
Jail	31.0	19.5	10.4	11.6	14.7
Other	23.2	42.7	45.5	44.7	41.1
Total	100.0%	100.0%	100.0%	100.0%	100.0%
Number of Cases	1,801	225	6,003	1,448	9,477

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² All racial and ethnic groups for which the data included fewer than 100 cases, including Asians, American Indians, and individuals who reported multiple racial categories. Also includes cases with no offender racial data found in CCAP.

Table 4.7

Offense and Race/Ethnicity of Sentenced 17-Year-Olds in Cases Filed as Misdemeanors¹
 February 2003 through January 2007

Offense Category	African-American	Hispanic/Latino	White	Other ²	Total
Crimes Against Persons	10.3%	8.9%	7.2%	9.7%	8.2%
Drug Crimes	20.7	14.7	22.8	19.0	21.6
Other Crimes	7.5	7.5	6.1	6.4	6.4
Property Crimes	19.7	19.5	25.2	23.5	23.8
Public Order Crimes	39.9	45.8	36.7	38.2	37.8
Status Crimes	–	–	<0.1	–	<0.1
Traffic Crimes	1.8	3.6	1.6	2.1	1.8
Unknown	0.1	–	0.4	1.1	0.4
Total	100.0%	100.0%	100.0%	100.0%	100.0%
Number of Cases	1,801	225	6,003	1,448	9,477

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² All racial and ethnic groups for which the data included fewer than 100 cases, including Asians, American Indians, and individuals who reported multiple racial categories. Also includes cases with no offender racial data found in CCAP.

Table 4.8

Sentences by Age Group in Cases Filed as Criminal Traffic¹
February 2003 through January 2007

Sentence Type	17		18–20		21 and Older	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Prison ²	0	–	0	–	46	<0.1%
Probation ³	70	5.2%	335	3.2%	3,081	3.0
Jail	281	21.0	3,991	37.9	53,069	51.6
Other ⁴	990	73.8	6,207	58.9	46,623	45.4
Total	1,341	100.0%	10,533	100.0%	102,819	100.0%

¹ Charges may have been reduced after case was filed. Age group reflects time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² Under statutory habitual offender provisions, courts may impose prison sentences for misdemeanor offenses.

³ Jail time may be required as a condition of probation.

⁴ Primarily fines and forfeitures; also includes suspension of driver license and restitution payments.

Table 4.9

Gender of Sentenced 17-Year-Olds in Cases Filed as Criminal Traffic¹
February 2003 through January 2007

Sentence Type	Male		Female		Total	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Probation	55	5.2%	15	5.1%	70	5.2%
Jail	234	22.4	45	15.4	281 ²	21.0
Other	757	72.4	232	79.5	990 ²	73.8
Total	1,046	100.0%	292	100.0%	1,341²	100.0%

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² The offender's gender was unknown in three cases, including two with jail sentences and one with a sentence other than probation or jail.

Table 4.10

Race/Ethnicity of Sentenced 17-Year-Olds in Cases Filed as Criminal Traffic¹
February 2003 through January 2007

Sentence Type	African-American	Hispanic/Latino	White	Other ²
Probation	9.5%	3.3%	4.7%	4.4%
Jail	31.2	13.0	17.8	27.1
Other	59.3	83.7	77.5	68.5
Total	100.0%	100.0%	100.0%	100.0%
Total Number	199	123	790	229

¹ Charges may have been reduced after case was filed. Individuals were 17 at time of offense. Includes only offenses committed after truth in sentencing rules took effect in February 2003.

² All racial and ethnic groups for which the data included fewer than 100 cases, including Asians, American Indians, and individuals who reported multiple racial categories. Also includes cases with no offender racial data found in CCAP.

Appendix 5

Program Availability by Facility

Division of Adult Institutions

Facility	AODA	Education ¹	Sex Offender Treatment	Other Treatment	Vocational	Work Release ²	Other
Maximum Security							
Columbia Correctional Institution		x	x	x	x		
Dodge Correctional Institution							
Green Bay Correctional Institution		x		x	x		
Taycheedah Correctional Institution	x	x	x	x	x		
Waupun Correctional Institution		x	x	x	x		
Wisconsin Secure Program Facility		x		x	x		
Medium Security							
Fox Lake Correctional Institution		x	x	x	x		
Jackson Correctional Institution	x	x	x	x	x		
Kettle Moraine Correctional Institution	x	x	x	x	x		
Milwaukee Secure Detention Facility ³		x					x
New Lisbon Correctional Institution		x	x	x	x		
Oshkosh Correctional Institution	x	x	x	x	x		
Prairie du Chien Correctional Institution	x	x		x	x		
Racine Correctional Institution	x	x	x	x	x	x	
Racine Youthful Offender Correctional Facility	x	x	x	x	x		
Redgranite Correctional Institution		x	x	x	x		
Stanley Correctional Institution		x		x	x		
Wisconsin Resource Center		x		x			
Minimum Security							
Black River Correctional Center ⁴	x	x		x	x	x	x
Chippewa Valley Correctional Treatment Facility	x						
Drug Abuse Correctional Center ⁵							x
Felmers O. Chaney Correctional Center						x	
Flambeau Correctional Center	x	x		x	x	x	
Gordon Correctional Center		x		x	x	x	
Kenosha Correctional Center						x	

Facility	AODA	Education ¹	Sex Offender Treatment	Other Treatment	Vocational	Work Release ²	Other
Minimum Security (continued)							
John C. Burke Correctional Center		x		x	x	x	
Marshall E. Sherrer Correctional Center				x		x	
McNaughton Correctional Center		x				x	
Milwaukee Women's Correctional Center	x					x	
Oakhill Correctional Institution	x	x		x	x	x	
Oregon Correctional Center		x				x	
Robert E. Ellsworth Correctional Center	x	x		x	x	x	
St. Croix Correctional Center ⁴	x	x			x		x
Sanger B. Powers Correctional Center						x	
Thompson Correctional Center		x				x	
Winnebago Correctional Center						x	

¹ Special education is available at Green Bay, Taycheedah, Wisconsin Secure Program Facility, Kettle Moraine, Prairie du Chien, Racine Youthful Offender, and Robert E. Ellsworth. Spanish classes or interpreters are available at Columbia, Green Bay, Fox Lake, New Lisbon, Oshkosh, Prairie du Chien, and Racine.

² Work release programs allow minimum security inmates to work for outside employers in order to improve their employment skills, pay financial obligations, and prepare for release.

³ Alternative to revocation programs, such as 13-week AODA programs and the Felony Drug Offender Alternative to Prison Program, which may be imposed instead of issuing a revocation order when an offender has violated a condition of probation.

⁴ Includes the Challenge Incarceration Program, which is structured around discipline and treatment, including instruction on military bearing, manual work, and intensive AODA treatment.

⁵ Earned release program includes intensive AODA treatment and allows the offender to be released to extended supervision earlier than the initial sentence specified. A judge determines offender eligibility at sentencing.

Appendix 6

Costs of Supervision in the Adult Correctional System

Fiscal Year Ending June 30, 2006

Division of Adult Institutions

	Facility	Average Daily Rate
Maximum Security	Columbia Correctional Institution	\$90.67
	Dodge Correctional Institution	93.02
	Green Bay Correctional Institution	79.53
	Taycheedah Correctional Institution	87.80
	Waupun Correctional Institution	79.24
	Wisconsin Secure Program Facility	142.61
	Average, Maximum Security Institutions	\$89.63
Medium Security	Fox Lake Correctional Institution	\$70.13
	Jackson Correctional Institution	69.60
	Kettle Moraine Correctional Institution	70.19
	New Lisbon Correctional Institution	66.99
	Oshkosh Correctional Institution	60.40
	Prairie du Chien Correctional Institution	90.74
	Racine Correction Institution	63.25
	Racine Youthful Offender Correctional Facility	99.38
	Redgranite Correctional Institution	68.94
	Stanley Correctional Institution	60.57
	Average, Medium Security Institutions	\$67.56
Minimum Security	Black River Correctional Center	\$103.17
	Chippewa Valley Correctional Treatment Facility	73.19
	Drug Abuse Correctional Center	94.01
	Felmers O. Chaney Correctional Center	78.14
	Flambeau Correctional Center	79.27
	Gordon Correctional Center	67.97
	John C. Burke Correctional Center	71.25
	Kenosha Correctional Center	61.26
	Marshall E. Sherrer Correctional Center	87.78
	McNaughton Correctional Center	78.82
	Milwaukee Women's Correctional Center	68.75
	Oakhill Correctional Institution	93.84

Division of Adult Institutions

Facility	Average Daily Rate
Minimum Security <i>(continued)</i>	
Oregon Correctional Center	\$ 68.32
Robert E. Ellsworth Correctional Center	101.66
Sanger B. Powers Correctional Center	64.21
St. Croix Correctional Center	103.78
Thompson Correctional Center	74.42
Winnebago Correctional Center	59.84
Average, Minimum Security Institutions	\$81.51
Contract Beds	\$66.73
Milwaukee Secure Detention Facility	\$80.85
Wisconsin Resource Center	\$53.05
Average Daily Rate, Division of Adult Institutions	
	\$75.54

Division of Community Corrections

	Average Daily Rate
Probation and Extended Supervision	\$5.67
Average Daily Rate, Division of Community Corrections	
	\$5.67

Appendix 7

Court Jurisdiction over Juveniles in Selected States

	Illinois	Indiana	Iowa	Michigan	Minnesota	Ohio	Wisconsin
Age of Criminal Court Jurisdiction	17	18	18	17	18	18	17
Juvenile Blended Sentencing ¹	Yes	No	No	Yes	Yes	Yes	No
Criminal Blended Sentencing ²	Yes	No	Yes	Yes	No	No	Yes
Once an Adult, Always an Adult ³	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Minimum Age for Discretionary Waiver to Criminal Court ⁴	13	14	14	14	14	14	14
Minimum Age for Presumptive Waiver to Criminal Court ⁵	15	n/a	n/a	n/a	16	n/a	n/a
Minimum Age for Automatic Transfer to Criminal Court ⁶	13	10	16	14	16	14	10
Reverse Waivers Allow for Petition for Transfer Back to Juvenile Court	Yes	No	Yes	No	No	No	Yes

¹ Allows juvenile courts to impose adult criminal sanctions on certain serious juvenile offenders.

² Allows criminal courts to which juveniles have been transferred to impose sanctions that would ordinarily be available only to juvenile courts.

³ Once a juvenile has been convicted of a felony as an adult, any subsequent felony charges must be heard in adult criminal court unless a reverse waiver has been granted. Nationwide, 34 states have such provisions.

⁴ Discretionary waivers authorize but do not require juvenile court judges to transfer cases that meet criteria outlined in state statutes to criminal court.

⁵ Under presumptive waiver policies, the transfer of certain cases to criminal court is presumed to be appropriate, and the juvenile therefore bears the burden of proving otherwise in a waiver hearing.

⁶ Under automatic transfer policies, which are also known as mandatory waivers or statutory exclusions, certain crimes automatically fall under the jurisdiction of the criminal court. In some states, the minimum age for automatic transfer varies by type of crime.

Appendix 8

Juvenile Correctional Institutions

Table 8.1

**Juveniles Entering Juvenile Correctional Institutions by Year
2002 through 2006**

Year	Number of Entries
2002	709
2003	549
2004	573
2005	486
2006	498
Total	2,815

Table 8.2

**Offenses of Juveniles Entering Juvenile Correctional Institutions
2002 through 2006**

Offense Category ¹	Number	Percentage of Total
Crimes Against Persons	1,348	47.9%
Drug Crimes	162	5.8
Other Crimes	283	10.0
Property Crimes	876	31.1
Public Order Crimes	103	3.7
Traffic Crimes	43	1.5
Total	2,815	100.0%

¹ Based upon the most serious offense committed.

Table 8.3

**Juveniles Entering Juvenile Correctional Institutions
2002 through 2006**

Age at Admission¹	Number	Percentage of Total
Up to age 14	128	4.6%
14	425	15.1
15	868	30.8
16	1,092	38.8
17	298	10.6
18 or older	4	0.1
Total	2,815	100.0%

Race/Ethnicity	Number	Percentage of Total
African-American	1,428	50.8%
White	997	35.4
Hispanic/Latino	222	7.9
American Indian	108	3.8
Asian or Pacific Islander	56	2.0
Unknown	4	0.1
Total	2,815	100.0%

County of Disposition	Number	Percentage of Total
Milwaukee	1,172	41.6%
Dane	274	9.7
Racine	223	7.9
Kenosha	185	6.6
Rock	87	3.1
Winnebago	87	3.1
Brown	77	2.7
Sheboygan	61	2.2
Outagamie	47	1.7
Waukesha	41	1.5
All Other Counties	561	19.9
Total	2,815	100.0%

Gender	Number	Percentage of Total
Male	2,493	88.6%
Female	322	11.4
Total	2,815	100.0%

¹ Age at beginning of episode; data on age at offense were not readily available.

Appendix 9

Criminal Court Jurisdiction over Juveniles in Wisconsin

The Juvenile Justice Code, ch. 938, Wis. Stats., specifies the types of crimes and circumstances in which juveniles may be prosecuted in adult criminal court.

Original Jurisdiction

Under s. 938.183, Wis. Stats., the adult criminal court has original jurisdiction over juveniles from 10 through 16 in the following circumstances:

- if they are alleged to have attempted or committed first-degree intentional homicide, or if they are alleged to have committed first-degree reckless homicide or second-degree intentional homicide;
- if they have been adjudicated delinquent and are alleged to have committed battery or assault while in a juvenile institution, juvenile detention center, or other type of secure facility, or if they are alleged to have committed battery or assault against a DOC agent while on community supervision (including juvenile aftercare, probation, extended supervision or parole); or
- if they are alleged to have violated any state criminal law and have previously been convicted in adult criminal court—referred to as “once an adult, always an adult”—or currently have a case pending in adult criminal court.

Juveniles who are alleged to have committed additional violations as part of the same offense may have all of their alleged violations charged on the same complaint in criminal court.

Under some circumstances, juveniles who are subjected to original criminal court jurisdiction may have their cases moved back into juvenile court, which is referred to as a “reverse waiver.” For this to occur, the juvenile must prove the following:

- if convicted, the adult criminal justice system could not provide adequate treatment;
- transferring jurisdiction to the juvenile court would not depreciate the seriousness of the offense; and
- retaining jurisdiction is not necessary to deter other juveniles from committing similar offenses.

In addition, s. 938.17(1), Wis. Stats., specifies that 16-year-olds charged with criminal traffic offenses also fall automatically under the jurisdiction of the adult criminal court.

Waivers

Under s. 938.18, Wis. Stats., the district attorney or a juvenile may petition the juvenile court to waive its jurisdiction under certain circumstances. Judges may also request waivers if they subsequently remove themselves from future proceedings. Juveniles may be waived into adult

criminal court if they are alleged to have committed any of the following on or after their 14th birthday:

- felony murder, which is causing the death of another human being while committing or attempting to commit another crime;
- second-degree reckless homicide;
- first- or second-degree sexual assault;
- taking hostages;
- kidnapping;
- armed robbery;
- armed burglary;
- robbery of a financial institution;
- the manufacture, distribution, or delivery of an controlled substance; or
- any offense at the request of or for the benefit of a gang.

Juveniles who are 15 and 16 years old may be waived into adult criminal court for any violation of state criminal law.

If a juvenile, district attorney, or judge requests that the juvenile court waive jurisdiction, a waiver hearing will be held at which the juvenile court will determine whether it is in the best interest of the juvenile and the public to waive jurisdiction. Judges must weigh the following criteria when determining whether to grant requests for waivers:

- the juvenile's personality, including whether he or she has a mental illness or developmental disability, as well as the juvenile's physical and mental maturity level, pattern of living, prior treatment history and potential for responding to future treatment;
- the juvenile's previous criminal record;
- the type and seriousness of the offense, including whether it was against a person or property and whether it was violent or premeditated;
- the adequacy and suitability of the facilities, services, and treatment available in the juvenile system, and the protection of the public; and
- the desirability of trial and disposition of the entire offense in one court, if other individuals involved in the alleged offense are being charged in adult criminal court.

Appendix 10

Youth Aids Funding Allocated to Counties
Calendar Years 2002 through 2007

County	2002	2003	2004	2005	2006	2007 ¹
Adams	\$ 228,654	\$ 239,662	\$ 261,465	\$ 258,408	\$ 235,847	\$ 218,364
Ashland	232,603	233,482	235,082	244,654	242,355	221,161
Barron	512,040	503,457	500,708	491,636	491,767	482,054
Bayfield	161,957	162,113	161,386	177,661	158,787	157,330
Brown	2,198,475	2,209,615	2,211,748	2,208,404	2,206,836	2,204,998
Buffalo	66,905	66,807	64,568	63,028	61,829	61,556
Burnett	230,348	237,170	227,746	214,796	214,952	217,485
Calumet	301,966	307,738	318,370	310,159	325,987	301,356
Chippewa	657,883	687,836	724,500	696,939	670,180	619,284
Clark	503,118	503,234	503,711	525,518	525,848	494,877
Columbia	405,427	392,427	402,096	395,268	377,989	378,979
Crawford	197,305	173,868	162,030	155,755	154,160	153,641
Dane	5,977,736	6,052,859	6,007,201	6,243,199	6,218,562	5,797,686
Dodge	702,748	711,193	717,784	723,498	740,080	708,267
Door	218,427	226,464	217,611	228,368	264,663	216,395
Douglas	1,134,945	1,136,675	1,183,055	1,170,829	1,165,706	1,102,789
Dunn	283,054	260,274	253,701	253,641	251,082	247,997
Eau Claire	1,215,427	1,208,960	1,293,288	1,226,849	1,192,577	1,149,306
Florence	58,598	59,092	57,744	83,281	58,837	60,516
Fond du Lac	977,088	981,686	981,894	980,727	981,237	989,138
Forest	92,680	109,115	83,319	86,488	127,748	84,257
Grant	289,005	289,306	292,126	286,469	285,791	284,560
Green	266,017	265,094	264,582	261,789	275,909	268,735
Green Lake	154,332	147,977	150,992	142,638	155,878	139,526
Iowa	176,475	176,168	198,750	179,562	178,006	178,765
Iron	66,684	50,126	49,101	48,764	48,981	49,962
Jackson	225,220	213,823	227,925	202,690	203,621	217,213
Jefferson	675,166	675,434	679,503	686,567	700,593	699,610
Juneau	272,552	282,876	275,379	285,342	297,628	261,255
Kenosha	3,186,257	3,225,470	3,204,081	3,198,183	3,198,412	3,212,303
Kewaunee	158,659	156,955	139,528	145,962	161,493	126,413
La Crosse	1,367,619	1,372,614	1,364,698	1,354,107	1,338,677	1,326,840
Lafayette	81,439	81,548	82,104	80,832	81,258	81,903
Langlade	416,814	417,295	419,804	408,182	438,821	394,682
Lincoln	402,398	398,437	401,621	456,410	467,001	392,166
Manitowoc	744,987	775,391	682,745	688,857	704,419	692,832
Marathon	1,554,990	1,555,306	1,552,566	1,584,820	1,614,180	1,557,973
Marinette	566,047	572,484	568,700	562,252	567,036	552,447
Marquette	138,879	135,910	101,489	102,614	102,500	102,708

County	2002	2003	2004	2005	2006	2007 ¹
Menominee	\$ 547,915	\$ 543,135	\$ 528,986	\$ 540,107	\$ 554,204	\$ 538,381
Milwaukee	31,902,191	32,430,144	32,306,151	32,418,904	32,415,159	31,453,428
Monroe	754,940	771,438	758,658	773,848	777,267	740,581
Oconto	353,212	353,751	382,554	399,278	374,741	360,500
Oneida	568,350	552,487	559,525	571,346	606,965	567,450
Outagamie	1,865,570	1,852,366	1,839,404	1,894,548	1,827,633	1,820,634
Ozaukee	712,410	714,260	711,605	698,806	746,851	694,757
Pepin	78,018	81,361	80,854	65,743	64,900	63,733
Pierce	314,824	327,459	321,130	326,592	328,787	312,019
Polk	463,711	460,483	488,707	473,763	459,254	452,289
Portage	553,319	559,946	556,430	560,138	553,863	550,300
Price	158,815	149,166	147,702	157,648	155,302	168,077
Racine	4,497,558	4,718,286	4,609,379	4,341,665	4,320,648	4,308,670
Richland	135,704	120,830	100,250	105,117	116,600	98,913
Rock	3,460,010	3,395,473	3,387,810	3,398,212	3,385,023	3,384,818
Rusk	258,123	263,215	255,845	257,394	279,783	257,947
Sauk	568,207	543,435	515,792	529,476	548,568	535,471
Sawyer	196,334	196,259	195,456	215,478	214,362	196,100
Shawano	581,472	588,576	588,288	581,341	577,690	606,965
Sheboygan	1,334,322	1,309,008	1,353,466	1,373,977	1,347,519	1,240,717
St. Croix	617,710	619,729	615,551	613,893	611,635	609,801
Taylor	212,177	230,812	222,686	215,249	210,173	211,502
Trempealeau	151,648	140,828	149,768	155,759	173,552	139,545
Vernon	219,753	230,189	221,186	229,393	220,901	212,684
Vilas	289,135	290,835	291,188	291,425	304,543	290,014
Walworth	960,505	976,959	971,002	988,245	1,000,684	939,686
Washburn	179,005	185,855	188,707	193,286	214,887	193,549
Washington	1,328,818	1,318,930	1,316,104	1,324,508	1,317,379	1,300,792
Waukesha	3,783,589	3,789,991	3,785,300	3,763,122	3,742,447	3,740,358
Waupaca	566,795	578,575	558,093	557,497	555,229	550,565
Waushara	277,373	307,519	303,254	300,943	292,924	277,237
Winnebago	1,768,239	1,759,622	1,782,110	1,770,338	1,830,491	1,679,568
Wood	1,349,446	1,345,722	1,335,115	1,348,624	1,323,218	1,310,500
Total	\$88,110,122	\$88,962,585	\$88,652,757	\$88,850,809	\$88,940,415	\$86,214,880

¹ Starting contract amount; does not include certain supplements and adjustments that are made at or after the end of the calendar year.

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State of Wisconsin Department of Corrections

January 28, 2008

Janice Mueller, State Auditor
Legislative Audit Bureau
22 East Mifflin Street, Suite 500
Madison, WI 53703

Dear Ms. Mueller:

We have completed an initial evaluation of the Legislative Audit Bureau's review of 17-year-old offenders in the adult criminal justice system. Given the complicated subject matter and the spectrum of viewpoints regarding this issue, we recognize the challenge your staff faced in collecting and analyzing data from widely disparate sources, including from the Department of Corrections. The Department believes this review will add important value to the ongoing discussion over the treatment of 17-year-olds as adults for the purposes of criminal investigation and prosecution. We also appreciate the opportunity at this stage to examine and comment on different aspects of the review, even as we continue to analyze the Bureau's findings in the coming weeks and consider submitting a more comprehensive response prior to March 31, 2008, consistent with Section 9109 (1f) of 2007 WI Act 20.

We would like to emphasize that the continuum of services as defined by the phrase "juvenile corrections" in the review is not limited to the Department of Corrections, but also includes counties and other agencies that play a role in Wisconsin's juvenile justice system. Seeking input from these other stakeholders would add further value to the discussion of the treatment of 17-year-old offenders in the adult criminal justice system. At the Department of Corrections, we take very seriously our responsibility to manage individuals effectively, regardless of whether they enter our system from juvenile or adult court. Every offender, regardless of age at the time of offense, presents multiple needs and varying levels of risk to the community when they enter our system. We are committed to delivering quality services to these individuals in a cost-effective manner, based on supporting research, so that we ensure individuals are not just held accountable for their actions, but also have the opportunity to access the resources needed to become law-abiding and successful when they are released from confinement or when they complete terms of community supervision. We share the ultimate goal of fewer new offenses, fewer new victims and increased community safety.

The Bureau's review points out important elements concerning the population affected by the enactment of 1995 Wisconsin Act 27. Specifically, the report notes that only 5% of the offenders who were 17 years old when they committed crimes received a prison sentence during the 5-year study period, with the overwhelming majority being placed on probation. Prosecutors and courts have used discretion in considering and imposing dispositions on 17-year-olds based on the seriousness of their crimes, impact on victims, possible penalties and available sentencing options. Clearly, the

dispositions for 17-year-olds sentenced to prison involve more serious crimes (e.g. murder, sexual assault, child enticement, robbery). Presumably, if all 17-year-olds were returned to the juvenile code, discretion still would be used in deciding which 17-year-olds would go through the adult system, where criminal prosecution and penalties may be more suitable for the offenses committed.

As the review points out, aggregate data regarding program participation and completion by 17-year-olds placed on probation could not be extracted by Department of Corrections' records. While the utilization of sample case file reviews sheds limited light on the experiences of this population, we believe additional analysis is necessary to gain a more comprehensive understanding of the effects that 1995 Wisconsin Act 27 has had over the years on this population.

The Bureau's point-in-time analysis of 17-year-olds sentenced to prison warrants additional clarification, as well. Specifically:

- Every offender in our adult prison system undergoes a rigorous, individualized assessment for treatment needs, which are appropriately geared toward criminal behavior. Some offenders simply do not present a treatment need during this assessment. This allows us to concentrate our limited resources on those offenders who do present treatment needs. Moreover, 17-year-olds who turn 18 before they enter adult prison (50 % of the study population) have the right to refuse any and all treatment or education programming while in prison, and some do invoke this right.
- Treatment program placement in the adult system is prioritized based on proximity to release date, institution conduct and readiness to fully engage in treatment. Treatment programs do tend to be delivered closer to an offender's scheduled release date. This practice is designed to maximize effectiveness, as offenders take freshly acquired lessons back into the community, where successful application means greater offender success and, ultimately, enhanced community safety.
- As stated in Table 29, data on program involvement is based on the most recent information recorded for individual offenders, which may be up to 12 months out of date. Consequently, an offender's total experience may not be reflected in the analysis.

Even with the above considerations, program participation and completion is relatively high among youthful offenders in our adult prison system, as demonstrated in Table 29. In fact, program participation and completion is higher among 17-year-olds in prison than among the general population of inmates who have been released from prison over the past several years.

The Bureau's exploration of revocation merits additional clarification, as well. As noted by the review, a significant number of offenders who committed their crime at age 17 and were placed on adult probation supervision were convicted of a misdemeanor crime. The report also states that probation was revoked for 47.2 percent of 17-year-old offenders because they violated a condition of probation or because they committed a new offense. It is important to note that the Department of Corrections pursues revocation only when an offender's behavior poses a serious threat to community safety, or after alternative strategies have failed to stem non-compliance with rules of supervision. The Department in recent years has expanded its investment in alternatives to revocation, providing agents with more tools to safely hold offenders in our adult system accountable in the community, furthering public safety.

The Bureau's exploration of recidivism also warrants further discussion. The review aptly notes that data sources do not utilize a consistent definition of recidivism, which reflects a challenge faced not just by our agency, but by corrections organizations nationally. This inconsistency prohibits valid comparisons between data and percentages defining recidivism for 17-year-old offenders released from prison or placed on probation, and the cohorts of youths released from juvenile facilities. In particular, the small sample sizes of the populations studied make it difficult to predict future recidivism or to draw accurate conclusions about relative effectiveness of the criminal and juvenile justice system options for 17-year-old offenders. This challenge is compounded by the reality that a small minority of 17-year-olds in the adult correctional system is sentenced to prison versus placed on probation, and the types of serious offenses committed by this population may vary from the offenses that result in probation. It can be argued that offenders sentenced to prison pose a high risk to the community and a high risk to further criminal behavior. National research also suggests that youthful offenders generally have a greater likelihood of higher recidivism than offenders who are older¹. Wisconsin DOC data is consistent with these national findings: Recidivism rates of 18-, 19-, and 20-year-old offenders are higher than rates of those over the age of 30.

The area of fiscal implications merits additional discussion. While changes to 1995 Wisconsin Act 27 would have dramatic fiscal impacts on the Department of Corrections, the implications will be much more profound among county Sheriffs, human service agencies and the Youth Aids program. Juvenile correctional services require a substantial investment in staff and intensive individualized programming and, for juvenile correctional institutions, the maintenance of secure, well-equipped and developmentally appropriate facilities. The Bureau has done commendable work in exploring some of these cost implications, and we believe additional analysis would provide more comprehensive cost projections. For example, we understand that county human service agencies are collectively assembling their own estimates of local costs for services to 17-year-olds, which ultimately may differ from estimates used in the review.

I again would like to recognize you and your staff for your professionalism and courtesy in reviewing this extraordinarily complicated subject.

Respectfully submitted,



Rick Raemisch
Secretary

¹ Bureau of Justice Statistics Special report: Recidivism of Prisoners Released in 1994. June 2002. Quote (page 7): "The younger the prisoner when released, the higher the rate of recidivism. For example, over 80% of those under the age of 18 were rearrested, compared to 45.3% of those 45 or older."