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A Review:

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

Department of Corrections

February 2008

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.

Key Facts and Findings

An average of 29,626 arrests of 17-year-olds were made in each year from 2001 through 2005.

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

17-year-olds accounted for less than 5.0 percent of jail bookings.

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

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

County expenditures for juvenile corrections could increase $53.5 million if 17-year-olds return to juvenile court jurisdiction.

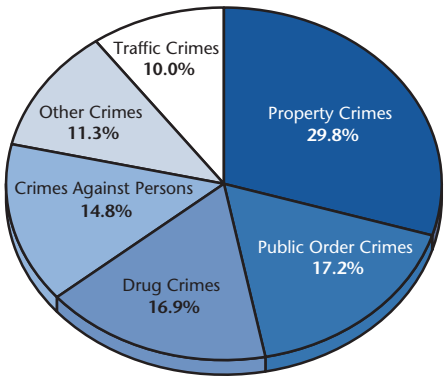
Arrests

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.

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



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.

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.

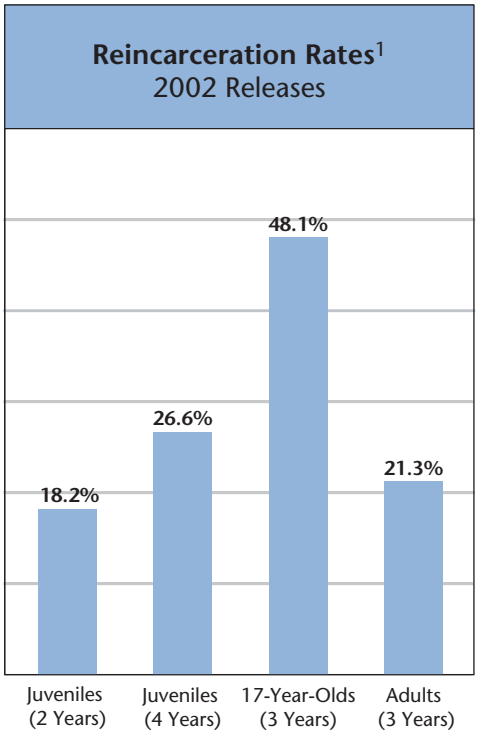
Among the 37 inmates in our sample, 20 were identified as having moderate or serious alcohol and other drug abuse (AODA) problems. There are waiting lists for AODA and other treatment programs.

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. 17-year-old offenders released from prison had a higher reincarceration rate than either juveniles or older adults.



[1]Rates 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.

Additional Information

For a copy of report 08-3, which includes a response from the Department of Corrections, call **(608) 266-2818** or visit our Web site:

www.legis.wisconsin.gov/lab

Address questions regarding this report to:

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