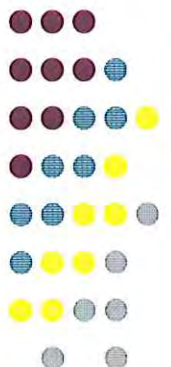




# Juvenile Justice and Youth Aids Program

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# Juvenile Justice and Youth Aids Program

The 1993 and 1995 sessions of the Wisconsin Legislature enacted major revisions of the state's juvenile justice system. Under 1995 Wisconsin Act 27, juvenile delinquency programs and services were transferred, on July 1, 1996, from the former Department of Health and Social Services to the Department of Corrections. Under prior law, Chapter 48 of the Wisconsin statutes (the Children's Code) described the legal framework of the state's child welfare and juvenile justice systems. Under 1995 Wisconsin Act 77, juvenile delinquency provisions were removed from Chapter 48 and revised and then incorporated into Chapter 938, referred to as "the Juvenile Justice Code." (Chapter 48 remains as the Children's Code, relating to child welfare and protection.) In the 1997 session and 2005 session of the Legislature, numerous additions and clarifications were made to the juvenile code.

Under Chapter 938, the Legislature states that its intent is to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system which will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively. Chapter 938 is also intended to accomplish the following: (a) protect citizens from juvenile crime; (b) hold each juvenile offender directly accountable for his or her acts; (c) provide an individualized assessment of each alleged and adjudicated delinquent juvenile, in order to prevent further delinquent behavior through the development of competency in the juvenile offender, so that he or she is more capable of living productively and responsibly in the community; (d) provide due process through which each juvenile offender and all other interested parties are assured fair hearings, during which constitutional and other legal rights are recognized and enforced; (e) divert juveniles from the juvenile justice system through early intervention as war-

ranted, when consistent with the protection of the public; (f) respond to a juvenile offender's needs for care and treatment, consistent with the prevention of delinquency, each juvenile's best interest and protection of the public, by allowing a judge to utilize the most effective dispositional option; and (g) ensure that victims and witnesses of acts committed by juveniles are afforded the same rights as victims and witnesses of crimes committed by adults, and are treated with dignity, respect, courtesy and sensitivity throughout any proceedings.

This paper provides an overview of juvenile crime statistics in Wisconsin, the state's juvenile justice system, youth aids funding provided to counties, and community-based programming for juveniles.

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## Wisconsin Juvenile Crime Statistics

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This section provides information on total juvenile arrests and juvenile arrest rates in Wisconsin as well as statistics for specific types of offenses.

Under Wisconsin law, a juvenile is defined as any person under the age of 18 years, except that for purposes of investigating or prosecuting violations of state or federal criminal law, a "juvenile" does not include a person who has attained 17 years of age. Under prior law, 17-year-old offenders were treated as juveniles. Under 1995 Wisconsin Act 27, 17-year-old offenders began to be treated as adults, first effective January 1, 1996.

Juveniles may be taken into custody by law enforcement personnel when the officer reasonably believes that the juvenile has committed an act in

violation of state or federal criminal law, is a runaway or has violated some other law or court order. Juveniles who are taken into custody are not considered arrested under state law. However, the national Uniform Crime Reporting (UCR) system, from which the following data is obtained, refers to the apprehension of both adults and juveniles as an arrest. Therefore, this paper refers to juvenile arrests.

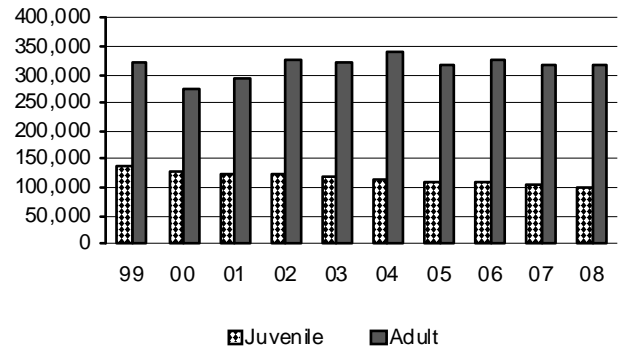
The UCR system also records 17-year-old persons in the juvenile category. While this treatment is no longer consistent with Wisconsin law, this practice allows for comparisons with prior year statistics and data from other states. The arrest data provided in this section covers a 10-year period (1999 through 2008); further, the age of persons considered to be juveniles is consistent throughout this period. Additional crime data can be found in a document entitled "Arrests in Wisconsin – 2008," published by the Office of Justice Assistance.

### Total Juvenile and Adult Arrests

Juvenile arrests were relatively stable in the mid-1980s, but increased each year from 1989 to 1997. Over the 10-year period from 1999 to 2008, however, total juvenile arrests declined by 26.9%, from 137,872 in 1999 to 100,744 in 2008. In comparison, over the same period, total adult arrests decreased 2.2%, from 321,610 arrests in 1999 to 314,271 arrests in 2008. Figure 1 shows the total number of juvenile and adult arrests statewide for the years 1999 through 2008. In 2008, juvenile arrests comprised approximately 24.2% of all arrests in Wisconsin. This percentage was the same as the juvenile population in 2008 as a percentage of total state population.

Of the juveniles arrested in 2008, 68,440 were male (68%) and 32,304 were female (32%). Offense categories that had the highest percentage of

**Figure 1**  
**Total Wisconsin Arrests by Year**

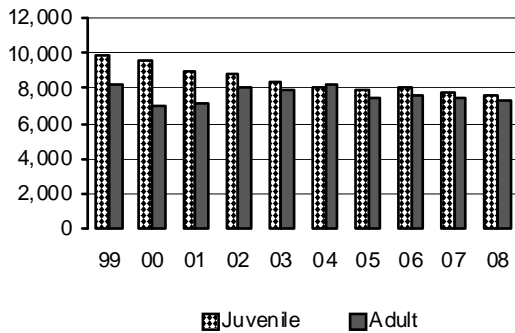


arrests of juvenile males included disorderly conduct, theft, liquor law violations, curfew violations, and vandalism. Offense categories that had the highest percentage of arrests of juvenile females included disorderly conduct, theft, liquor law violations, and runaways.

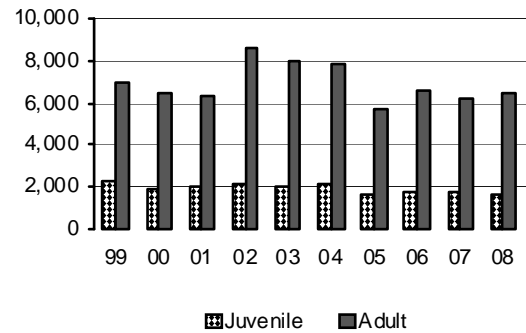
### Juvenile and Adult Arrest Rates

The population under age 18 in Wisconsin declined by 5.7% between 1999 and 2008, from 1,392,554 juveniles to 1,312,805 juveniles. The arrest rate (expressed as the number of arrests per 100,000 residents) removes the effect of population change on the number of arrests and permits the comparison of the number of arrests over time on a uniform population base. As shown in Figure 2, the overall juvenile arrest rate decreased from 9,901 arrests per 100,000 juveniles in 1999 to 7,674 arrests per 100,000 juveniles in 2008. This represents a 22.5% decrease in the overall juvenile arrest rate over the 10-year period. Figure 2 also shows that the adult arrest rate also decreased over the same 10-year period (from 8,284 to 7,283 arrests per 100,000 population), representing a 10.6% decrease. Throughout the 10-year period, the juvenile arrest rate was generally higher than the adult arrest rate.

**Figure 2**  
**Wisconsin Annual Arrest Rates (Per 100,000)**



**Figure 3**  
**Arrests for Part I Violent Offenses**



**Juvenile and Adult Arrests for Violent Offenses**

Total juvenile arrests for Part I violent offenses as defined by the UCR (murder, forcible rape, robbery and aggravated assault) increased each year from 1988 through 1994 (from 1,151 to 2,674 arrests) but have remained below the 1994 peak level since then. Juvenile arrests for violent offenses decreased from 2,281 arrests in 1999 to 1,658 in 2008, a decrease of 27.3%. Adult arrests for Part I violent offenses also decreased over the 10-year period from 6,904 arrests in 1999 to 6,475 arrests in 2008, a 6.2% decrease. Figure 3 shows the total number of juvenile and adult arrests statewide for Part I violent offenses for the years 1999 through 2008. In 2008, juvenile arrests comprised 20.3% of all arrests for Part I violent offenses in Wisconsin, less than the percentage of the juvenile population in the total state population (23.3%).

**Distribution of Juvenile Arrests**

The 100,744 juvenile arrests in Wisconsin in 2008 were distributed among seven, broad categories of offenses: (a) 1.5% were for violent offenses, excluding sex offenses (murder, negligent manslaughter, robbery and aggravated assault); (b) 15.2% were for property offenses (burglary, theft, motor vehicle theft and arson); (c) 4.6% were for drug offenses (predominantly marijuana possession); (d) 0.2% were for sex offenses; (e) 21.0% were

for status offenses (offenses which would not be crimes were they committed by an adult, such as liquor law violations, curfew violations and run-aways); (f) 18.8% were for the offense of disorderly conduct; and (g) 38.7% were for other offenses (primarily drug-related violations, weapons violations, simple assault and vandalism).

As noted above, arrests for violent offenses constituted less than two percent of all juvenile arrests in Wisconsin in 2008, and juvenile arrests for violent offenses decreased by 27.3% from 1999 to 2008. The juvenile arrest rate (per 100,000) for violent offenses also decreased by 23.0% over the same time period.

Between 1999 and 2008, juvenile property offense arrests (15.2% of total juvenile arrests in 2008) decreased by 31.0% during the 10-year period, while the juvenile property offense arrest rate decreased by 26.8%. Drug offenses decreased by 12.7% and the drug offense arrest rate decreased by 7.4%, while sex offenses decreased by 11.9% and the sex offense arrest rate decreased by 9.2%.

The number of status offense arrests (21.0% of all juvenile arrests in 2008) decreased by 36.2% over the 10-year period, while the status offense arrest rate decreased by 32.4%. Disorderly conduct arrests decreased by 22.7%, while the arrest rate for disorderly conduct decreased by 18.0%. Finally, the

number of juvenile arrests for the category "other offenses," which constitute 38.7% of total juvenile arrests, decreased by 22.5%, while the juvenile arrest rate for these offenses decreased by 17.8%.

For a more detailed look at Wisconsin juvenile crime statistics, Appendices I, II and III show, respectively, the number of juvenile arrests by offense for the years 1999 through 2008, the juvenile arrest rate by offense over the same time period, and total 2008 juvenile arrests by county.

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### **An Overview of the Juvenile Justice Process in Wisconsin**

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Chapter 938, of the statutes, delineates the justice system's jurisdiction concerning violations of state and federal criminal law, civil law, county, town or other municipal ordinances, as well as jurisdiction over juveniles alleged to be in need of protection and services. Depending on the nature of the juvenile's behavior, the public may be represented by a district attorney, a corporation counsel, a city, village or town attorney or by a person designated by a county board of supervisors. The procedural requirements, under Chapter 938, to address these various situations differ in some respects. However, the following discussion focuses on procedures relating to juveniles who are alleged to have violated state or federal criminal law and the responsibilities of the district attorney as the public's representative.

The juvenile court has exclusive jurisdiction over any juvenile 10 years of age or over who is alleged to have violated any state or federal criminal law, with the exception of youth who fall under the original jurisdiction of the adult court or who are waived into adult court, as described in the following section. Juvenile courts have concurrent jurisdiction with municipal courts over juveniles age 12 or older who are alleged to have violated a county, town or municipal ordinance. There is no separate juvenile court system in Wisconsin. The

circuit courts serve as juvenile courts and are referred to as juvenile courts when exercising their jurisdiction under Chapters 48 and 938. Under current law, juveniles under age 10 who commit a delinquent act are considered to be juveniles in need of protection or services (JIPS) and are not subject to delinquency proceedings. Proceedings for these juveniles are handled by the juvenile court under the JIPS provisions in Chapter 938 of the statutes.

Under Chapter 938, a juvenile may be taken into custody when a law enforcement officer believes that the juvenile has committed an act in violation of a state or federal criminal law, that the juvenile is a runaway or that the juvenile has violated some other law or court order. The officer taking the juvenile into custody must immediately attempt to notify the juvenile's parent(s) or guardian and make every effort to release the juvenile, when appropriate, into that person's custody. A juvenile alleged to be delinquent may be referred to juvenile court intake by a law enforcement officer or others, including school officials or family members.

#### **Intake Process**

A juvenile court or the county department responsible for providing intake services must specify at least one intake worker to provide the services required by state law. Intake workers provide services 24 hours a day, seven days a week, for the purpose of screening juveniles taken into custody, unless the juvenile is otherwise released under certain circumstances specified by statute. The intake worker is responsible for: (a) determining whether and where a juvenile is to be held in temporary custody; (b) receiving referral information and conducting intake inquiries to determine how the case is to proceed; and (c) providing counseling and referral services and other functions to assist the court.

#### **Temporary Custody**

A juvenile may not be held in secure detention (generally, a county facility) unless first inter-



viewed in person by an intake worker. If the intake worker is in a place distant from where the juvenile is being held or the hour is unreasonable, as defined by written court intake rules, the worker may authorize holding the juvenile in secure custody while the intake worker is en route to the in-person interview or until 8:00 a.m. of the day following the night on which the juvenile was taken into custody. However, this procedure is only allowed if the worker determines, based upon a telephone conversation with the law enforcement officer who took the child into custody, that the juvenile meets the statutory criteria for holding a juvenile in secure detention.

A juvenile may be held in temporary custody if the intake worker determines that there is probable cause to believe the juvenile is within the jurisdiction of the court and if probable cause exists to believe one of the following: (a) that if the juvenile is not held he or she will commit injury to the person or property of others; (b) that the parent, guardian or legal custodian of the juvenile or other responsible adult is neglecting, refusing, unable or unavailable to provide adequate supervision and care and that services to ensure the juvenile's safety and well-being are not available or would be inadequate; or (c) that the juvenile will run away or be taken away and be unavailable for proceedings of the court. Under these circumstances, a juvenile may be held in nonsecure custody (for example, the home of a parent or a foster or group home) or, under certain circumstances, in a juvenile detention facility, a county jail or a municipal lockup facility.

If a juvenile is not released, but placed into temporary custody, a hearing must be held by a judge or circuit court commissioner within 24 hours after the end of the day that the decision to hold the juvenile was made, excluding Saturdays, Sundays and legal holidays. A parent not present at the hearing must be granted a rehearing upon request for good cause shown.

By the time of the hearing, a petition to initiate proceedings against the juvenile must be filed unless the juvenile is taken into custody for: (a) a

failure to obey a summons; (b) a violation relating to court-ordered or aftercare supervision or the conditions relating to a continued or temporary custody order; or (c) being a runaway from another state or the subject of a warrant issued for the juvenile's apprehension in another state. A written statement of the reasons for holding a juvenile in custody must be provided if a petition is not filed. If no hearing has been held within 24 hours or if no petition or statement has been filed at the time of the hearing, the juvenile must be released.

However, if no petition has been filed at the time of the hearing, a juvenile may be held in custody with the approval of the judge or circuit court commissioner for an additional 48 hours from the time of the hearing, but only if the judge or circuit court commissioner determines that probable cause exists to believe that the juvenile is an imminent danger to himself or herself or to others, or that probable cause exists to believe that the parent, guardian or legal custodian of the juvenile or other responsible adult is neglecting, refusing, unable or unavailable to provide adequate supervision and care. The extension may be granted only once for any petition. If a petition is not filed within the 48-hour extension period, the judge or circuit court commissioner must order the juvenile's immediate release from custody.

### **Intake Inquiry**

While some juveniles are held in temporary physical custody, many are quickly released to a parent or other responsible adult and their cases are subsequently reviewed by an intake worker. The intake worker makes recommendations as to what type of legal proceedings, if any, should be pursued with respect to the juvenile. The intake worker must make his or her determination, based on an intake inquiry, in no more than 40 days after receiving the referral information. The purpose of the intake inquiry is to determine whether there is sufficient evidence to establish the jurisdiction of the juvenile court and to determine the best interests of the juvenile and the public with regard to any action to be taken. Three major courses of ac-

tion are available to the intake worker: (a) dismiss the case; (b) enter into a deferred prosecution agreement with the juvenile; or (c) initiate formal delinquency proceedings.

*Dismissal.* The intake worker may dismiss the case without further proceedings if sufficient evidence does not exist to establish juvenile court jurisdiction. In this case, the intake worker must make a reasonable attempt to inform all of the known victims of the juvenile's act that the case is being closed. Notwithstanding the intake worker's decision, the district attorney still has the authority to initiate a delinquency petition within 20 days after notice that the case has been closed.

*Deferred Prosecution.* The intake worker may enter into a written deferred prosecution agreement with the involved parties if the intake worker determines that neither the interests of the juvenile nor of the public require filing a petition and the jurisdiction of the court, if sought, would exist. Before entering into a deferred prosecution agreement, the intake worker is required to offer all of the victims of the juvenile's alleged act, who have requested the opportunity, an opportunity to confer with the intake worker concerning the proposed deferred prosecution agreement (although victims do not have the authority to approve or disapprove the agreement). The agreement also requires the consent of the juvenile and his or her parent, guardian or legal custodian. A deferred prosecution agreement may not include any form of out-of-home placement and may not exceed one year. If a petition has been filed, a deferred prosecution agreement may not be entered into or a case may not be closed unless the petition is withdrawn by the district attorney. The district attorney may also terminate a deferred prosecution agreement if he or she files a delinquency petition within 20 days of receipt of the notice concerning the agreement. In such a case, any statements made to the intake worker during the intake inquiry are inadmissible.

The obligations imposed under a deferred prosecution agreement and its effective date must

be stated in writing. The intake worker must provide a copy of the agreement and order to the juvenile, parent, guardian, and/or legal custodian, and to any agency providing services under the agreement.

If the obligations imposed under the agreement are not being met, the intake worker may cancel the deferred prosecution agreement and, if cancelled, must request that a petition be filed. The juvenile and the juvenile's parent, guardian or custodian also have the right to terminate the deferred prosecution agreement at any time or to object to terms of the agreement. If an objection arises, the intake worker may alter the terms of the agreement. If the agreement is terminated by the juvenile or his or her parent, guardian or custodian, or an objection cannot be resolved, the intake worker may request that the district attorney file a petition. Again, the district attorney has 20 days to file the petition and any statements made to the intake worker during the intake inquiry are inadmissible.

If the obligations imposed under the deferred prosecution agreement are met, the intake worker informs the juvenile and a parent, guardian and legal custodian in writing, and no petition may be filed on the charges that brought about the deferred prosecution agreement.

A deferred prosecution agreement may provide for any one or more of the following actions: (a) individual, family or group counseling; (b) requirements to abide by such obligations as supervision, curfews and school attendance; (c) an alcohol and other drug abuse assessment; (d) participation in an alcohol and other drug abuse treatment programs; (e) restitution for damaged property or physical injury to another; (f) participation in a supervised work program or other community service work; and (g) placement with a volunteers in probation program or a teen court program.

*Initiate Delinquency Proceedings.* If, as a result of the intake inquiry, the intake worker determines that the juvenile should be referred to the court, the intake worker must request that the district attor-

ney file a formal delinquency petition with the juvenile court. The district attorney has the authority to initiate a delinquency petition within 20 days after the request is made.

### **Delinquency Proceedings**

A district attorney must file a delinquency petition, close the case or refer the case back to the intake worker or to the law enforcement agency for further investigation within 20 days after the date of the filing of the intake worker's request for a petition or notice of a deferred prosecution agreement. If referred back for investigation, the intake worker or law enforcement agency must complete its investigation within 20 days after the date of the referral. If the case is referred back to the intake worker with a decision to not file a petition, the intake worker must close the case or enter into a deferred prosecution agreement within 20 days. If a district attorney decides not to file a petition, he or she must make a reasonable attempt to inform all of the known victims of the juvenile's act that a petition will not be filed. Based on yearend caseload data from the Director of State Courts, there were 10,527 juvenile delinquency-related cases opened in Wisconsin courts in 2009.

At any time after a petition is filed but before a determination is made at a fact-finding hearing, the juvenile court may suspend the proceedings and establish conditions applicable to the juvenile and the juvenile's family. If the juvenile, the juvenile's family and the person filing the petition agree to the conditions, they enter into a consent decree with the court.

The consent decree is a written court order, valid for up to one year, with a six-month extension possible. If the juvenile satisfactorily completes the period of supervision, the decree expires and the original delinquency petition is dismissed. If the juvenile breaks a condition of the consent decree, the court may take up the delinquency petition at the point where it left off and pursue an adjudication of delinquency and a formal disposition. Before entering into a consent decree, the district

attorney is required to offer all of the victims of the juvenile's alleged act, who have requested the opportunity, an opportunity to confer with the district attorney concerning the proposed consent decree (although victims do not have the authority to approve or disapprove the consent decree). Victims also have the right to make a statement or provide a written statement to the court prior to the consent decree being entered into.

### **Hearings**

If a delinquency petition is filed and no consent decree is ordered, three types of hearings are provided for the adjudication and disposition of the case: (a) a plea hearing; (b) a fact-finding hearing; and (c) a dispositional hearing. Throughout these proceedings, the district attorney has certain consultation and notification responsibilities in regard to victims.

*Plea Hearing.* A plea hearing must be held (within 30 days of the filing of a delinquency petition or within 10 days if the juvenile is in secure custody) to determine the juvenile's plea to the petition for delinquency. If the juvenile contests the petition, the court must schedule a fact-finding hearing. If the juvenile does not contest the petition, the court must schedule a dispositional hearing (within 30 days of the plea hearing or within 10 days if the juvenile is in secure custody).

*Fact-finding Hearing.* If the alleged delinquent contests portions of the delinquency petition, the juvenile court must hold a fact-finding hearing (within 30 days of the plea hearing or within 20 days if the juvenile is in secure custody). The fact-finding hearing is to the court (that is, the juvenile does not have a right to a jury hearing). At the hearing, the prosecutor must prove beyond a reasonable doubt that the juvenile committed the offense(s) specified in the petition. At the conclusion of the hearing, the juvenile court makes findings of fact and conclusions of law relating to the petition. If the court finds that the juvenile is not within the jurisdiction of the court or finds that the facts alleged in the petition are not proved, the

court must dismiss the petition with prejudice (that is, the petition may not be brought again).

If the court determines that the juvenile committed the offense(s) specified in the delinquency petition or the juvenile does not contest the petition, the juvenile is adjudicated delinquent.

Being adjudicated delinquent is not the same as being convicted of a crime. Most of the civil disabilities which may be imposed on an adult convicted of a crime may not be imposed on a juvenile found delinquent. For example, a person who was adjudicated delinquent may not be prohibited from holding public office because of the past delinquency determination once he or she reaches the age of majority. However, juveniles who are adjudicated delinquent for an act that would have been a felony if committed by an adult are prohibited from possessing a firearm, unless a court subsequently determines that the person is not likely to act in a manner dangerous to public safety. Further, if the juvenile is adjudicated delinquent for sexual assault or certain crimes against children (and at the court's discretion for certain other offenses), the juvenile may be required to comply with the reporting requirements of the sex offender registration program, unless the court determines, under certain circumstances and after a hearing on a motion made by the juvenile, that the juvenile is not required to comply. If the court orders a juvenile to comply with the reporting requirements, the court may order the juvenile to continue to comply with the requirements until his or her death.

*Dispositional Hearing.* Once a juvenile is adjudicated delinquent, the juvenile court must hold a dispositional hearing within 30 days of the fact-finding hearing or within 10 days if the juvenile is in secure detention. Victims also have the right to make a statement or provide a written statement to the court prior to the imposition of a disposition. At the dispositional hearing, on the request of any party, unless cause to the contrary is shown, the court may admit testimony on the record by telephone or live audiovisual means. At the conclusion of the hearing, the court must make

a dispositional order.

### **Dispositional Orders**

The court must issue a written dispositional order detailing the placement and treating of the juvenile based on evidence submitted to the court. In addition to the order, the court must make written findings of fact and conclusions of law based on evidence presented to the court, including findings as the juvenile's condition and need for special treatment or care if an examination or assessment was conducted.

The dispositional order must be in writing and contain: (a) the specific services or continuum of services to be provided to the juvenile and family; (b) if custody is to be transferred to effect the treatment plan, the identity of the legal custodian; (c) notice that the juvenile's parent, guardian, or legal guardian may request the service agency make available any record or information about the juvenile; (d) the date of the expiration of the order; and (e) a statement of the conditions with which the juvenile is required to comply. If the juvenile is placed outside the home, the order must provide: (a) the name of the place or facility, including transitional placements, where the juvenile will be cared for or treated (certain exceptions may apply if the placement is a foster home or treatment foster home); (b) a designation of the amount of support, if any, to be paid by the juvenile's parent, guardian or trustee; (c) an order for the juvenile's parent, if they have not already, to provide a statement of income, assets, debts, and living expenses of the juvenile and parent to the county department by a specified date (the county department must use the information to determine whether the department may claim federal foster care and adoption assistance reimbursement for the costs of the juvenile's care); (d) a permanency plan if one has been prepared; (e) a finding that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile or, under certain conditions a finding that the juvenile's current residence will not safeguard the welfare of the juvenile or the community due to the serious nature of the act for

which the juvenile was adjudicated delinquent; (f) if placed under the supervision of the county department, assigning the county department primary responsibility for providing services to the juvenile; (g) if placed in a placement recommended by a court-designated agency, a statement that the court approves the recommended placement; (h) if placed in a placement other than that recommended by the court-designated agency, a statement that the court has given bona fide consideration to the recommendations of the agency and all parties; (i) if aggravated circumstances or sexual abuse were involved in the juvenile's home, a determination that the responsible agency or department is not required to make reasonable efforts to make it possible for the juvenile to return safely to the home; or (j) if the juvenile is an Indian juvenile in need of protection or services, a finding supported by clear and convincing evidence that continued custody of the Indian juvenile is likely to result in serious emotional or physical damage.

In deciding the disposition, the court must consider the seriousness of the act for which the juvenile is adjudicated delinquent and may consider any other delinquent act that is read into the record and dismissed at the time of the adjudication. Dispositions may include counseling, supervision, teen court program, intensive supervision, placement electronic monitoring, transfer of legal custody, or restitution. (Appendix IV includes a complete list of dispositional alternatives available to the juvenile court.)

Generally, a dispositional order made before the juvenile reaches 18 years of age, that places or continues the placement of the juvenile in his or her home, must terminate one year after the order is entered unless the court specifies a shorter period of time or the court terminates the order sooner. An order made before the juvenile reaches 18 years of age that places or continues the placement of the juvenile in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent terminates when any of the following occur: (a) the juvenile reaches 18 years of

age; (b) one year after entry of the dispositional order; or (c) if the juvenile is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, when the juvenile reaches 19 years of age, whichever is later (unless the court specifies a shorter period of time or the court terminates the order sooner).

An order involving placement of the juvenile in a Type 2 residential care center for children and youth or in a juvenile correctional facility, made before the juvenile reaches 18 years of age, may apply for up to two years after the order's entry or until the juvenile's 18<sup>th</sup> birthday, whichever is earlier, unless the court specifies a shorter period of time or the court terminates the order sooner. If the order does not specify a termination date, it shall apply for one year after the date on which the order is granted or until the juvenile's 18<sup>th</sup> birthday, whichever is earlier, unless the court terminates the order sooner.

A serious juvenile offender disposition order, made before the juvenile reaches 18 years of age, applies for five years after its entry if the adjudicated act was equivalent to a Class B or C felony offense if committed by an adult, or until the juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class A felony offense if committed by an adult.

### **Out of Home Placements**

Nine major types of out-of-home placements are available as dispositions. Listed in order from least restrictive to most restrictive, the out-of-home placement options available to the court are: (a) the home of a relative; (b) a non-relative's home not licensed for foster care for less than 30 days; (c) a licensed foster home; (d) a licensed treatment foster home; (e) a licensed group home providing residential care for five to eight juveniles; (f) a licensed residential treatment center; (g) a juvenile detention facility or juvenile portion of a county jail for no more than 30 days, provided a county board

resolution has been passed authorizing use of the facility for dispositional purposes; (h) a Type 2 residential care center for children and youth under the supervision of the county department; or (i) a Type 1 juvenile correctional facility or a secured residential care center for children and youth.

### **Extensions of and Revisions to Dispositional Orders**

A parent or guardian, the juvenile, any agency bound by the order, the district attorney, corporation counsel or the court may request an extension of the original dispositional order, except that dispositional orders that placed a juvenile in detention, nonsecure custody or inpatient treatment may not be extended. The court must hold a hearing on the extension request at which the person or agency providing services to the juvenile provides a written report of the juvenile's progress. Based on the evidence, the court may extend a dispositional order for a specified length of time.

With certain exceptions, an order that continues the placement of a juvenile in his or her home, or that extends an order relating to a Type 2 residential care center for children and youth, a juvenile correctional facility, the serious juvenile offender program or aftercare supervision must be for a specified length of time not to exceed one year after its date of entry. An order that continues the placement of a juvenile in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent shall be for a specified length of time not to exceed the date on which the juvenile reaches 18 years of age, one year after the date of entry of the order, or, if the juvenile is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, the date on which the juvenile reaches 19 years of age, whichever is later. No extension of an original dispositional order relating to a Type 2 residential care center for children and youth, a juvenile correctional facility, the serious juvenile offender program or aftercare supervision may be granted

for a juvenile who is 17 years of age or older when the original dispositional order terminates.

A parent or guardian, the juvenile, any agency bound by the order, the district attorney, corporation counsel or the court may also request a revision of a dispositional order that does not involve a change in the juvenile's placement. A hearing regarding the requested revision is required unless all parties sign written waivers supporting the revision and the court approves the waivers.

A change in placement may be requested by the agency primarily responsible for implementing the order or the district attorney. A request for a change in placement requires that written notice be sent to the juvenile or the juvenile's legal counsel or guardian ad litem, and the parent, foster parent, treatment foster parent or other physical custodian, guardian and other legal custodian. The notice must describe the new placement and the reasons for the change. Any person receiving the notice may obtain a hearing on the matter by filing an objection with the court within 10 days of receiving the notice.

The juvenile, the parent, guardian or legal custodian of the juvenile, or any person or agency primarily bound by the dispositional order may also request a change in placement. In addition, the court may propose a change in placement on its own motion. Such requests require a hearing on the matter if the request states that new information is available which affects the advisability of the current placement, unless the requested or proposed change in placement involves any change in placement other than a change in placement of a juvenile placed in the home to a placement outside the home and written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice and the court approves. If a hearing is scheduled, the court must notify the juvenile, the parent, guardian and legal custodian of the juvenile, any foster parent, treatment foster parent or other physical custodian of the juvenile and all parties who are bound by the dispositional order at least three days prior to the

hearing. If all the parties consent, the court may proceed immediately with the hearing.

No change in placement may extend the expiration date of the original order, except that if the change in placement is from a placement in the juvenile's home to a placement in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative who is not a parent, the court may extend the expiration date of the original order. The extension may be to the date on which the juvenile reaches 18 years of age, the date one year after the date of the change in placement order, or, if the juvenile is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, to the date on which the juvenile reaches 19 years of age, whichever is later, or for a shorter period of time as specified by the court.

If the change in placement is from a placement in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative to a placement in the juvenile's home and if the expiration date of the original order is more than one year after the date of the change in placement order, the court is required to shorten the expiration date of the original order to the date that is one year after the date of the change in placement order or to an earlier date as specified by the court.

### **Juvenile Records**

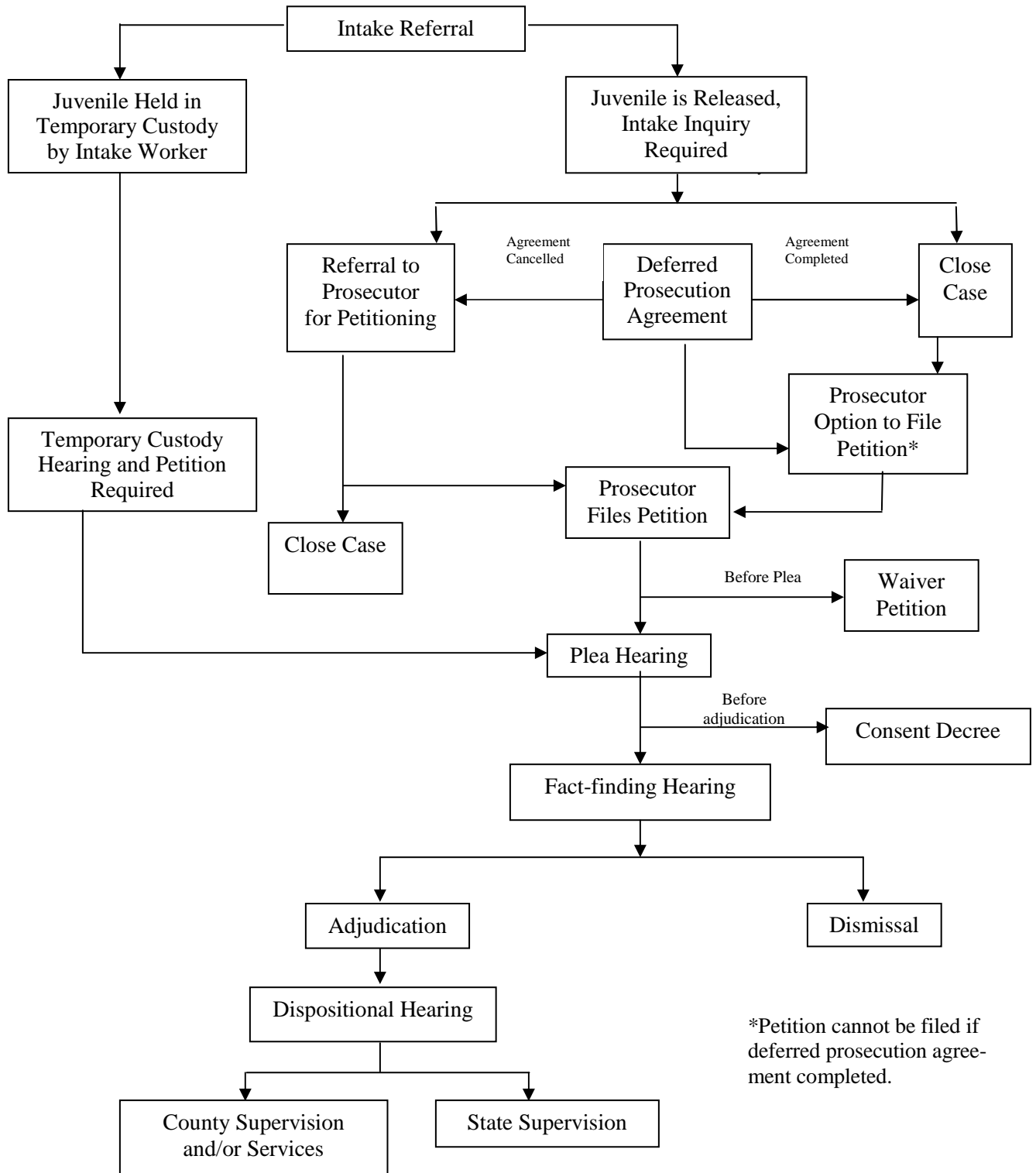
Juvenile court proceedings are typically not open to the general public; however, victims and any other person the court finds to have a proper interest in the case are specifically authorized to attend any hearing. In addition, police and court records relating to juveniles are generally not open for inspection nor may their contents be disclosed except to certain requesters for limited purposes. For example, victim and witness coordinators may request and review police and court records and

make that information available only as necessary to ensure that victims and witnesses of crimes receive the rights and services to which they are entitled by law. In addition, police records may be inspected by representatives of the news media who wish to obtain information for the purpose of reporting news without revealing the identity of the juvenile involved. Confidential exchange of information between the police and school officials or other law enforcement or social welfare agencies is also permitted under certain conditions.

There are major exceptions to the confidentiality of juvenile court hearings and records for certain juvenile offenders. The court is required to allow the general public to attend hearings and to open for inspection by any requester the records of a juvenile who: (a) has been alleged to be delinquent for committing a violation that would subject the juvenile to a Serious Juvenile Offender disposition; or (b) has been alleged to be delinquent for committing any felony offense, if the juvenile has been adjudicated delinquent at any time prior to the current proceeding and that previous adjudication remains unreversed. The requester receiving information under these provisions may further disclose the information to anyone. However, in neither of these cases is the court allowed to open hearings or allow the inspection of any records relating to physical, psychological, mental or developmental examinations of the juvenile, court reports relating to service planning for the juvenile or other records that deal with sensitive personal information of the juvenile and the juvenile's family. In addition, local law enforcement may provide information from the sex offender registry concerning a juvenile registrant or a juvenile proceeding in which the registrant was involved. The information may be released to an organization, an individual, or the general public if the police chief or sheriff determines that doing so is necessary to protect the public.

Figure 4 provides an overview of the juvenile adjudication process from intake to disposition.

**Figure 4: Adjudication Process Following Referral to Intake Worker**





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## Original Adult Court Jurisdiction and Waiver to Adult Court

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Current law provides for original adult court jurisdiction over certain juveniles, as well as discretionary waiver of other juveniles to adult court jurisdiction. Beginning July 1, 1996, a "juvenile," as applied here, pertains to those under the age of 17 years.

### Original Jurisdiction of Adult Court

Adult criminal courts have original jurisdiction over juveniles under the following conditions:

a. If a juvenile is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or second-degree intentional homicide on or after the juvenile's 10th birthday;

b. If a juvenile has been adjudicated delinquent and is alleged to have committed battery or assault while placed in a juvenile correctional facility, a juvenile detention facility, a secured residential care center for children and youth or a secured group home or against an aftercare agent or a probation, extended supervision and parole agent.

c. If a juvenile is alleged to have violated any state criminal law and has either been convicted of a previous violation in adult court (following waiver to adult court or under the original jurisdiction of the adult court) or has criminal proceedings pending in adult court (referred to as "once waived/always waived").

In addition, a juvenile specified in a. or b., who is alleged to have attempted or committed a violation of any state criminal law in addition to the violation alleged under a. or b., is under the adult court's jurisdiction for all of the alleged violations if the violations can be charged in the same complaint ("joined").

If a preliminary examination (applicable to felony charges only) is held regarding a juvenile who is subject to the original jurisdiction of the adult court, the court is required to determine whether there is probable cause to believe that the juvenile has committed the violation of which he or she is accused. If the court does not make that finding, the court is required to discharge the juvenile from adult court; however, juvenile proceedings may still be brought.

If the adult court finds probable cause, it is required to determine whether to retain jurisdiction or to transfer jurisdiction to the juvenile court (referred to as "reverse waiver"). The adult court must retain jurisdiction unless the juvenile proves by a preponderance of the evidence all of the following:

a. That, if convicted, the juvenile could not receive adequate treatment in the criminal justice system;

b. That transferring jurisdiction to the juvenile court would not depreciate the seriousness of the offense; and

c. That retaining jurisdiction is not necessary to deter the juvenile or other juveniles from committing such violations.

In adult court, the juvenile is subject to criminal court procedures and criminal penalties, except that the adult court may impose a disposition under the juvenile justice code under certain conditions. The adult court must impose a juvenile disposition, in lieu of a criminal penalty, if either of the following conditions apply:

1. The adult court finds that the juvenile committed a lesser offense or a joined offense that is *not* any of the following: (a) an attempt to commit first-degree intentional homicide on or after the juvenile's 10<sup>th</sup> birthday; (b) first-degree reckless homicide or second-degree intentional homicide on or after the juvenile's 10<sup>th</sup> birthday; (c) battery or assault while placed in a juvenile correctional facility, a juvenile detention facility or a secured care

center for children and youth or against an aftercare agent or a probation, extended supervision and parole agent; or (d) an offense for which the juvenile court may waive its jurisdiction over the juvenile; or

2. The adult court finds that the juvenile committed a lesser offense that is an offense specified in (a), (b), (c) or (d) above *and* the court determines, based on certain criteria, that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a juvenile disposition under the juvenile justice code. The criteria used by the adult court in making this determination are identical to those used by the juvenile court in determining whether a juvenile should be waived to adult court. These criteria are described in the next section.

It should be noted that, under prior law, 15- and 16-year olds alleged to have committed certain crimes were not eligible for reverse waiver. These crimes included first-degree intentional homicide, attempted first-degree intentional homicide, first-degree reckless homicide, or second-degree intentional homicide. Under 2005 Act 344, this exclusion from reverse waiver was deleted.

A separate statutory provision governs juveniles alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or second-degree intentional homicide on or after the juvenile's 15<sup>th</sup> birthday (including any additional crimes joined in the complaint). In these cases, if the juvenile is found to have committed a lesser offense that is not one of these offenses, the court must impose a juvenile disposition, in lieu of a criminal penalty, if the court determines, after considering the criteria for waiver to adult court, that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a juvenile disposition.

### **Waiver To Adult Court**

A district attorney or a juvenile may apply to the juvenile court to waive its jurisdiction in any of the

following situations:

a. If the juvenile is alleged to have committed felony murder, second-degree reckless homicide, first- or second-degree sexual assault, taking hostages, kidnapping, armed robbery, armed burglary, robbery of a financial institution, or the manufacture, distribution or delivery of a controlled substance on or after the juvenile's 14<sup>th</sup> birthday;

b. If the juvenile is alleged to have committed, on or after the juvenile's 14<sup>th</sup> birthday, a violation at the request of or for the benefit of a criminal gang, that would constitute a felony if committed by an adult; or

c. If the juvenile is alleged to have violated any state criminal law on or after the juvenile's 15<sup>th</sup> birthday.

The judge may also initiate a petition for waiver in any of these situations, if the judge disqualifies himself or herself from any future proceedings on the case.

The juvenile must be represented by counsel at the waiver hearing and the counsel must be provided access to the social records and other reports pertaining to the case. The juvenile has the right to present testimony on his or her own behalf, including expert testimony, and has the right to cross-examine witnesses at the hearing. The juvenile does not have the right to a jury at a waiver hearing.

If a petition for waiver of jurisdiction is contested, the court must hear testimony and consider other relevant evidence. If uncontested, no testimony need be taken if the court determines that the decision not to contest the waiver of jurisdiction is knowingly, intelligently and voluntarily made. The court must base its decision whether to waive jurisdiction on criteria relating to: (a) the personality, including whether the juvenile has a mental illness or developmental disability, and prior record of the juvenile; (b) the type and seriousness of the offense; (c) the adequacy and suitability of facilities, services and procedures available for treatment of the juve-

nile and the protection of the public in the juvenile justice system; and (d) the desirability of trial and disposition of the entire offense in one court if the juvenile was allegedly associated in the offense with persons who will be charged with a crime in adult court.

After considering these criteria, the court must state its finding with respect to the criteria on the record. If the court determines that it is established by clear and convincing evidence that it would be contrary to the best interests of the juvenile or of the public to hear the case, the court must enter an order waiving jurisdiction and referring the matter to the district attorney for appropriate proceedings in criminal court. If the waiver is granted, the district attorney may charge the offense he or she deems appropriate and a court or jury may convict the juvenile in regard to any offense. If the waived juvenile is being held in secure custody, he or she is transferred to an appropriate officer or adult facility and is eligible for bail.

In a preliminary examination in adult court for a waived juvenile, for a violation alleged to have occurred prior to his or her 15<sup>th</sup> birthday, the court may bind the juvenile over for trial only if there is probable cause to believe that felony murder, second-degree reckless homicide, first- or second-degree sexual assault, taking hostages, kidnapping, armed robbery, armed burglary, robbery of a financial institution, or the manufacture, distribution or delivery of a controlled substance has been committed or that a crime that would constitute a felony if committed by an adult has been committed at the request of or for the benefit of a criminal gang. If the

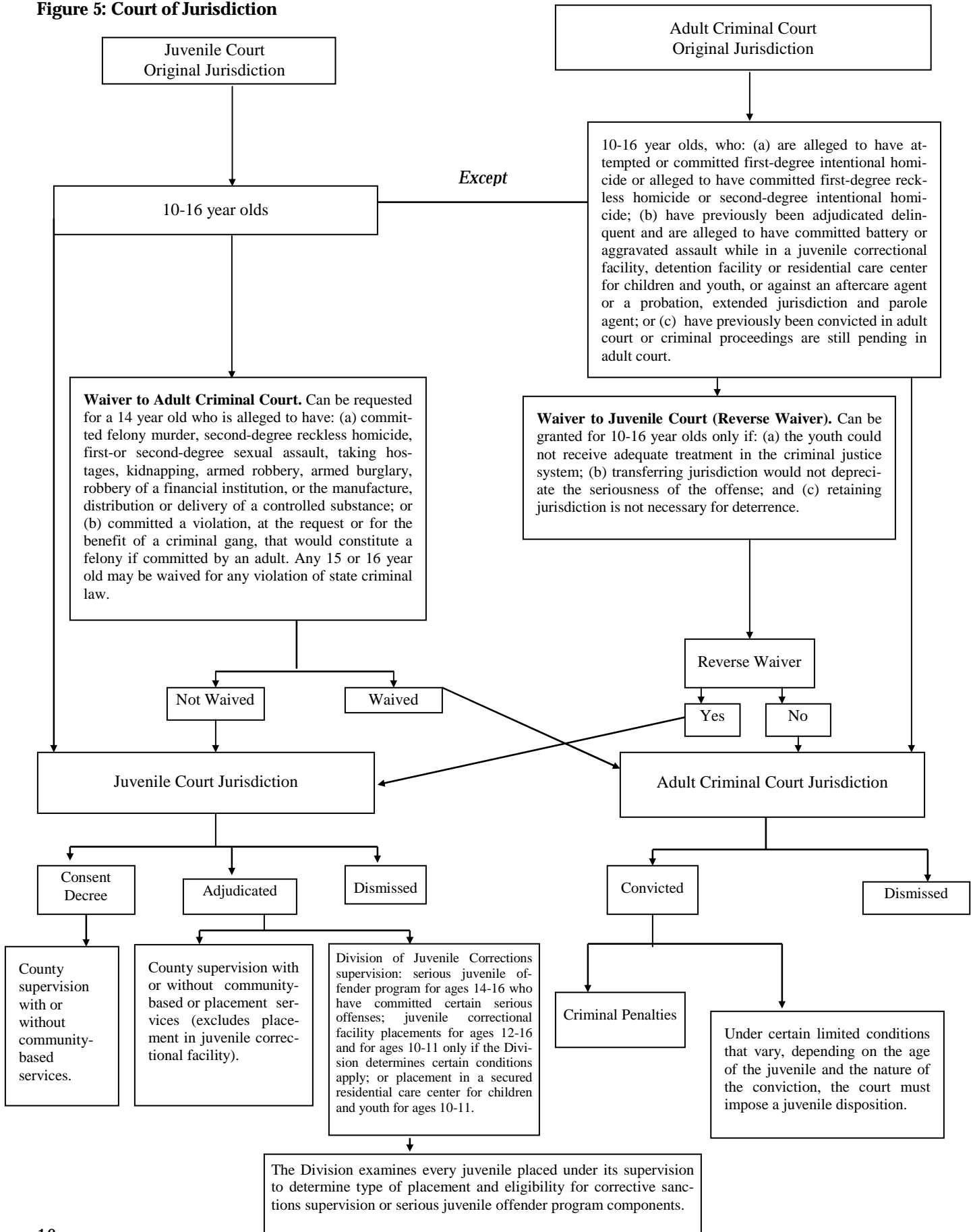
court does not make that finding, the court is required to discharge the juvenile from adult court; however, juvenile proceedings may still be brought.

### **Correctional Placement for Juveniles Sentenced in Adult Court**

If a juvenile who has not attained the age of 16 years is sentenced to a state prison, the Department of Corrections (DOC) must place the juvenile at a secured juvenile correctional facility or a secured residential care center for children and youth. While there are some inconsistencies in current law regarding the age at which a juvenile who has been convicted in adult court may be transferred to an adult prison, it appears that for a juvenile who has not attained the age of 16 years, DOC may determine that a prison placement is appropriate based on: (a) the juvenile's prior record of adjustment in a correctional setting, if any; (b) the juvenile's present and potential vocational and educational needs, interests and abilities; (c) the adequacy and suitability of available facilities; (d) the services and procedures available for treatment of the juvenile within the various institutions; (e) the protection of the public; and (f) any other considerations promulgated by the Department by rule. Current law does not preclude DOC from designating an adult correctional institution as a reception center for the juvenile and subsequently transferring the juvenile to a secured juvenile correctional facility or a secured residential care center for children and youth.

Figure 5 provides an outline of juvenile and adult criminal court jurisdiction for juveniles ages 10 or older.

**Figure 5: Court of Jurisdiction**



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## Juvenile Detention

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### State Law

Under current law, a county board, or two county boards jointly, may establish a juvenile detention facility for holding juveniles in secure custody. Secure detention may be used if the juvenile: (a) meets current law criteria for placing a juvenile in secure detention prior to disposition or trial, including a juvenile less than 15 years of age who is being held for criminal proceedings under original adult court jurisdiction; (b) is subject to a disposition that includes placement in secure detention; (c) is subject to short-term detention by a caseworker or other authorized person for an investigation relating to a violation of a condition of a dispositional order, including conditions relating to aftercare supervision or placement in an intensive supervision program; and (d) is subject to a secure detention sanction for a violation of a condition of a dispositional order, including conditions relating to aftercare supervision or placement in an intensive supervision program.

DOC has the statutory authority to establish standards and regulations for juvenile facilities to ensure compliance with both federal and state law. This authority is administered under Chapter DOC 346 of the Wisconsin Administrative Code. As of December, 2010, there are 16 county-operated juvenile detention facilities approved by DOC, with a combined rated capacity of 599 beds. Counties may expand their existing secure juvenile detention bed capacity, under provisions in DOC 346, through the use of double-celling. Several counties have increased capacity in this manner.

There are also several alternatives to the juvenile detention facilities operated by Wisconsin counties. First, a county board of supervisors may contract with DOC for the use of a state juvenile correctional facility for the secure detention of juveniles who meet certain criteria. A county may use a juvenile correctional facility for holding a ju-

venile only if any of the following criteria are met: (a) there is no county-operated juvenile detention facility within 40 miles of the county seat; or (b) there is no bed space available in a county-operated juvenile detention facility within 40 miles of the county seat. The county may use a juvenile correctional facility for holding a juvenile only if DOC approves that use based on the availability of beds in the juvenile correctional facility and on the programming needs of the juvenile.

A county/DOC contract must specify: (a) the per person daily rate to be paid by the county for holding a juvenile; (b) the charges to be paid by the county for any extraordinary medical and dental expenses and any programming provided for the juvenile by DOC; and (c) any other matters that are necessary and appropriate concerning the obligations, responsibilities and rights of the contracting county and DOC. A juvenile held in custody under a county/DOC contract is under the supervision and control of DOC and is subject to the rules and discipline of the Department.

Second, one or more county boards of supervisors may contract with a privately operated juvenile detention facility for the secure detention of juveniles. A county board of supervisors may delegate the authority to contract with a private entity to its county department providing juvenile welfare services. A juvenile detention contract with a private entity requires the following: (a) that the facility meet or exceed the minimum requirements for the approval and operation of a juvenile detention facility established by DOC; (b) that the facility be approved by DOC; (c) that the facility provides educational programming, health care and other care that is equivalent to that which a juvenile would receive in a public juvenile detention facility; (d) the specification of the rates to be paid by the county for holding a juvenile in the facility and charges for any extraordinary medical and dental expenses and for any programming provided to a juvenile; (e) an agreement that the county retains jurisdiction over a juvenile held at the facility; (f) an agreement that the facility is subject to inspection by DOC; and (g) a specification of any other

matters that are necessary and appropriate concerning obligations, responsibilities and rights of the contracting counties and DOC. The statutory requirements and DOC rules for public juvenile detention facilities would also apply to private facilities. Currently, no private entities operate juvenile detention facilities in Wisconsin.

Finally, a county board of supervisors may contract with one or more counties in Minnesota that operate a juvenile detention facility for holding juveniles. The same requirements for contracting with a privately-operated juvenile detention facility apply to contracting with a Minnesota county. Currently, there are no contracts of this type approved by DOC.

### **Federal Requirements**

Federal law places strict limitations on holding juveniles in secure custody in certain types of facilities. The federal Juvenile Justice and Delinquency Prevention Act (JJDP) authorizes the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) to provide formula grants to states for juvenile justice and delinquency prevention programs.

In order to receive a formula grant, a state is required to submit a plan for carrying out the requirements of the JJDP, which include: (a) providing that no status offenders are placed in juvenile detention or juvenile correctional facilities, except for violations of valid court orders; (b) providing that no alleged or adjudicated delinquents are detained or confined in any institution in which they have contact with incarcerated adults; (c) reducing the overrepresentation in juvenile detention and correctional facilities of juveniles who are members of minority groups; and (d) providing that no juveniles are detained or confined in any adult jail or lockup. However, juveniles alleged to have committed a delinquent offense may be held in an approved juvenile portion of an adult jail or lockup for up to 24 hours outside a standard metropolitan statistical area (urban area). In addition,

in standard metropolitan statistical areas, a juvenile may be held in an approved juvenile portion of an adult jail or lockup for up to six hours (an administrative hold). Juveniles detained for longer periods must be held in secure juvenile detention facilities. The JJDP requirements do not apply to juveniles who have been waived into adult court for felony offenses.

Funding for the 2010 federal fiscal year for JJDP is \$978,000 FED. The state's Office of Justice Assistance (OJA) administers the program in Wisconsin and reports to OJJDP on the status of Wisconsin's compliance with the JJDP requirements. OJA indicates that approximately 80% of the formula grant funds received annually by Wisconsin under the JJDP are distributed to local governments for juvenile justice programs, including delinquency prevention and early intervention services, services for serious juvenile offenders and efforts to reduce the overrepresentation of minorities in secure juvenile facilities.

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### **Wisconsin's Juvenile Correctional Facilities**

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The Division of Juvenile Corrections (DJC) in DOC is authorized to operate juvenile correctional facilities. Currently there are two facilities for males and one facility for females for juveniles adjudicated delinquent.

The two male facilities are the Ethan Allen School, located near the village of Wales in southeastern Wisconsin (Waukesha County), and the Lincoln Hills School, located near the town of Irma in north-central Wisconsin (Lincoln County). In addition, an adventure-based education program (SPRITE) for male juveniles utilizes an off-grounds facility in Oregon (Dane County).

The female facility, the Southern Oaks Girls School, is located in Union Grove in southeastern

Wisconsin (Racine County). Prior to October, 1994, juvenile girls were located at the Lincoln Hills School.

Finally, the Department of Health Services (DHS) operates a secured mental health unit for juveniles transferred from other juvenile correctional facilities. The Mendota Juvenile Treatment Center, located at the Mendota Mental Health Institute (Dane County), provides treatment to male juvenile offenders with complex emotional and behavioral problems. Following treatment, juveniles either are placed in the community or are returned to the facility that they initially came from. Corrections currently utilizes 29 beds at the Center. In 2010-11, DOC is providing \$4,261,600 [\$1,365,500 general purpose revenue (GPR) and \$2,896,100 program revenue (PR)] to DHS as reimbursement for the costs of the facility's operation.

Funding for the state costs of the juvenile justice system in 2010-11 totals \$200.3 million, of which approximately \$100.8 million is provided to counties for community youth and family aids, known as "youth aids". (Youth aids are discussed in a separate section of this paper.) Of the remaining \$99.5 million, \$54.3 million is allocated to the operation of the state's juvenile correctional facilities.

Table 1 shows the PR funding and positions allocated to each DOC juvenile facility in 2010-11, the funding allocated to DHS (all funds) for mental health treatment, and the actual average daily population for each facility in 2009-10.

**Table 1: Secured Juvenile Facilities**

Facility	2010-11		2009-10 Actual ADP
	Funding	Positions	
Ethan Allen School	\$22,059,800	260	207
Lincoln Hills School	17,911,300	206	176
SPRITE	571,200	8	5
Southern Oaks Girls School	<u>9,543,000</u>	<u>108</u>	<u>49</u>
Subtotal	\$50,085,300	582	437
Mendota Juvenile Treatment Center	\$4,261,600		29
Total	\$54,346,900		466

The courts have two dispositional options that result in a juvenile being placed in a juvenile correctional facility: (a) a direct secured correctional placement; and (b) the disposition of the juvenile as a serious juvenile offender.

### Juvenile Correctional Placement

A court may place any adjudicated juvenile in a juvenile correctional facility if the following conditions are met: (a) the juvenile was found delinquent for the commission of an act which, if committed by an adult, would be punishable by a sentence of six months or more; and (b) the juvenile was found to be a danger to the public and to be in need of restrictive custodial treatment.

If the court has determined that a juvenile is not appropriate for placement in the Serious Juvenile Offender Program, the following conditions are deemed to provide sufficient evidence for a finding that the juvenile is a danger to the public and in need of restrictive custodial treatment: (a) the juvenile has committed any one of various violent acts that would be a felony if committed by an adult; (b) the juvenile possessed, used or threatened to use a firearm while committing a delinquent act that would be a felony if committed by an adult; or (c) the juvenile illegally possessed or went armed with a dangerous weapon.

### Serious Juvenile Offender (SJO) Program

Certain juveniles who have committed offenses equivalent to certain Class A, Class B, or Class C felonies are subject to disposition under the SJO program. This disposition provides an array of component phases, including both juvenile correctional facility and community placements, through which the juvenile may pass. The initial placement is in a juvenile correctional facility. This program is described in greater detail in a later section of this paper.

### Institutional Demographic Data

The most recent demographic analysis available

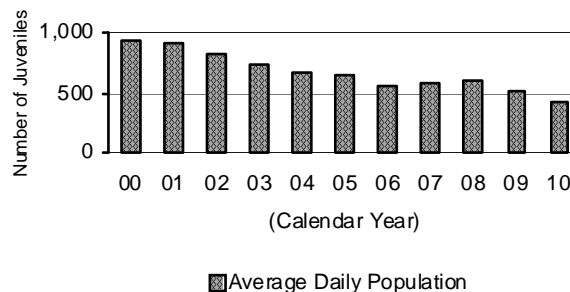
from DOC is for juveniles who were placed at juvenile correctional facilities in 2009. During 2009, juveniles ranged from 13 years of age to over 18 years of age (due to extended juvenile court jurisdiction). The 2009 data indicates that the average age of juveniles admitted to the institutions was 15.71 years for males and 15.79 years for females. The majority of juveniles committed to the facilities came from the populous counties of southeastern and southern Wisconsin, with 51.0% of male juvenile offenders and 28.6% of female juvenile offenders coming from Milwaukee County. Minority juveniles comprised 69.1% of the male institutional population and 53.1% of the female population admitted in 2009.

### Average Daily Population (ADP) Statistics

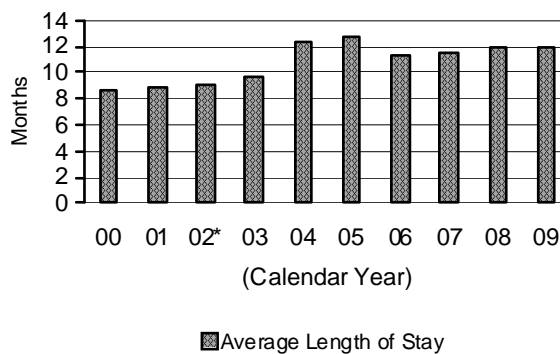
As of December, 2010, 352 juveniles (334 males and 18 females) resided at the juvenile correctional facilities. In recent years, the number of juveniles placed at the institutions has been declining. The average daily population (ADP) for the facilities was 572 in 2006, and 591 in both 2007 and 2008. However, the ADP for the facilities was 510 in 2009, and is estimated at 430 for 2010. The average daily population data for calendar years 2000 through 2010 are provided in Appendix V of this paper. This data is also depicted in Figure 6 for the last 10 years. Historically, the average daily populations at the institutions rose steadily from 1991 through 1996. Between 1996 and 1997, populations declined by 7.3%, but increased again in 1998, by 5.8%. From 2001 to 2010 (estimated), the ADP has declined by approximately 55%.

Figure 7 shows the average length of stay for delinquents placed at the secured juvenile correctional facilities (Ethan Allen School, Lincoln Hills School and Southern Oaks Girls School) for calendar years 2000 through 2009. In 2000, the average length of stay was 9.1 months and in 2001, 9.6 months.

**Figure 6**  
**Juvenile Correctional Facilities (Average Daily Population)**



**Figure 7**  
**Average Length of Stay (Juvenile Correctional Facilities)**



\*Data in 2002 and after reflect new method of calculation, and are not comparable to prior years.

After 2001, however, DOC instituted a different method of calculating the average length of stay, which takes into account additional periods of placement after initial release, such as sanctions for violations of supervision rules. Under this new method, average length of stay for juveniles whose commitments ended in 2002 was 12.3 months, and was 12.8 months for juveniles whose commitments ended in 2003. In following years, the average length of stay for juveniles was: (a) 14.1 months in 2004; (b) 13.9 months in 2005; (c) 11.3 months in 2006; (d) 11.5 months in 2007; (e) 12.0 months in 2008; and (f) 11.9 months in 2009. Because the calculation method is different, the figures after 2002



are not strictly comparable to those from previous years.

Generally, changes in the average length of stay over time are affected by a variety of factors, including: (a) the number, types and effectiveness of treatment and rehabilitation programs; (b) the degree to which institutional population exceeds or under-utilizes the capacity of available facilities; (c) the nature of the delinquent acts committed by juveniles and the dispositions that result; and (d) the capacity of aftercare services available at any given time.

### **Reception and Programming at the Institutions**

Ethan Allen School and Lincoln Hills School each operate a reception cottage where juveniles are placed for approximately 30 days for assessment upon their arrival at the institution. (Lincoln Hills School also has an abbreviated reception period for certain juveniles receiving alcohol and other drug abuse treatment.) Similarly, there is a six-bed, reception and assessment unit at Southern Oaks Girls School where staff assess each girl's needs and develop individual treatment plans. Thereafter, juveniles are placed in one of the cottages or units most suited to their treatment needs. Some cottages specialize in a treatment area such as alcohol and other drug abuse, mental health, cognitive intervention, or sex offender treatment. Each of the juvenile correctional facilities also operates a security unit where juveniles are placed temporarily as a consequence of serious disciplinary violations or other behavioral problems.

### **Educational Programming**

Juvenile correctional facilities serve juveniles ranging in age from 10 to 21 years. The Department indicates that there are a total of 58.5 academic and vocational teachers and five supervisory staff at Ethan Allen School, Lincoln Hills School, and the Southern Oaks Girls School. Additional services are provided by guidance counselors and school psychologists. In 2010, the combined enrollment for the three schools was 797 students, resulting in

a teacher-to-student ratio of approximately 1:13.

Students can earn high school credits while placed at the juvenile correctional facilities. The credits can apply toward graduation after release. In 2010, students earned 1,338,26 credits toward high school graduation, an average of 1.68 credits per student. A total of 11 students were promoted from middle school to high school, four earned their high school diplomas, and 176 earned their high school equivalency diplomas (HSEDs).

Educational staff conduct in-depth educational evaluations of students that include diagnostic assessment in reading and mathematics. Evaluation of academic gains is approached through the implementation of formal testing administered at intake and at exit. Interim testing may be completed quarterly to assess a juvenile's appropriateness for HSED programming. Results are reported to the student's parents/guardian every 90 days. Some general results in 2009-10 for the three schools are as follows:

*Southern Oaks Girls School.* In reading, 90% of students maintained or improved grade levels and 90% maintained or improved their math scores.

*Ethan Allen School.* In reading, 78% of students maintained or improved grade levels and 66% maintained or improved their math scores.

*Lincoln Hills School.* In reading, 68% of students maintained or improved grade levels and 65% maintained or improved their math scores.

Career and technical education programming is also provided at the schools, including LifeWork Education and career development programming. In addition, the schools offer special education programming in accordance with the federal Individuals with Disabilities Education Act (IDEA) and state special education law. The Department reports that a high proportion of students enter the juvenile justice system with a history of special education needs, such as cognitive disabilities, learning disabilities, emotional behavioral disabili-

ties, speech and language disabilities, and visual or hearing impairments. During 2010, approximately 51% of the students at secured juvenile correctional facilities participated in special education programming compared to a statewide participation level of 14%.

### **Planning and Release Decisions**

Once a delinquent is placed at one of the juvenile correctional institutions, the Office of Juvenile Offender Review (OJOR) in DJC is authorized to make all placement decisions with respect to the delinquent, including release from secure custody. Consistent with Chapter 938, OJOR decisions are made with the goal of placing juveniles in the least restrictive setting consistent with their needs and the protection of the public.

A Joint Planning and Review Committee (JPRC) makes planning and placement recommendations with respect to each delinquent. The JPRC consists of a representative of the juvenile correctional facility, a representative of the county that committed the juvenile or an aftercare agent, or both, and an OJOR representative. The JPRC reviews the assessment of the juvenile conducted in the reception cottage at the institution as well as court records and other information obtained from the county committing the juvenile. The JPRC then recommends program objectives and makes a placement recommendation for the juvenile. The JPRC may recommend placement in a particular cottage or placement outside the institution in an alternate care facility such as a residential care center, a group home or a foster home or in the juvenile's own home. If the JPRC does not reach a consensus, final decision-making authority with respect to the juvenile's placement is delegated to OJOR. OJOR decisions may be appealed to the DJC division administrator. A juvenile who remains at the juvenile correctional facility generally is reviewed by OJOR every 90 days to: (a) assess the juvenile's progress towards fulfilling treatment goals and release from the institution; and (b) recommend placement or program changes, if necessary.

### **Aftercare Supervision**

Dispositional orders cover the entire time a juvenile is under supervision, including the time spent in a juvenile correctional facility and a period of time following the juvenile's return to the community. Juveniles adjudicated delinquent are generally released from the correctional facility with time remaining on their dispositional orders so that they may be placed on "aftercare supervision."

Following release from a juvenile correctional facility, a juvenile is usually returned to his or her family or to an alternate care facility such as a residential care center for children and youth, group home or foster home. Aftercare supervision is provided to monitor juveniles following their release from secure care to ensure school attendance, participation in treatment programs and compliance with other conditions of the juvenile's release. Counties may provide their own aftercare supervision or purchase these services from the state. Currently, the state is the designated aftercare provider for 22 counties. The average daily population in state-provided aftercare was 76 juveniles in 2009-10.

An aftercare plan for a juvenile placed in a juvenile correctional facility or a secured residential care center for children and youth must be prepared, within certain time limits, by the aftercare provider (DOC or the county). An aftercare plan must include all of the following: (a) the minimum number of supervisory contacts per week; (b) the conditions, if any, under which the juvenile's aftercare status may be revoked; (c) the services or programming to be provided to the juvenile while on aftercare; and (d) the estimated length of time that aftercare supervision and services will be provided to the juvenile. A juvenile may, however, be released from a juvenile correctional facility or a secured residential care center for children and youth whether or not an aftercare plan has been prepared.

Subject to certain written policies, if a juvenile who is on aftercare supervision administered by the county department violates a condition of that su-

pervision, the juvenile's aftercare caseworker or any other authorized person may, without a hearing, take the juvenile into custody and place the juvenile in a juvenile detention facility, the juvenile portion of a county jail or in a place of nonsecure custody for not more than 72 hours while the alleged violation and the appropriateness of revoking the juvenile's aftercare status are being investigated. This provision only applies if, before the violation, the juvenile has acknowledged in writing that he or she has read (or has had read to him or her) and understands those conditions.

### **Type 2 Juvenile Correctional Facility Status**

Type 2 juvenile correctional facility status is available to both DOC, as a condition of aftercare, and to the juvenile court, as a dispositional option. When given "Type 2" institutional status by DOC or the court, a juvenile is allowed to serve all or part of his or her dispositional period in a less restrictive community placement, rather than in a Type 1 juvenile correctional facility. Legally, the juvenile in a Type 2 placement continues to be on institutional status and may be administratively transferred to different placements, including more restrictive placements.

A Type 2 administrative transfer does not require a hearing. This provides the Department with an alternative to releasing a juvenile to aftercare with the right to a hearing in the event of future changes in placement. Thus, a juvenile with Type 2 status who violates a condition of his or her placement in a Type 2 facility may be returned to a juvenile correctional facility without an administrative revocation hearing.

At the discretion of the court, a juvenile may be given a disposition that places the juvenile in a Type 2 residential care center for children and youth under the supervision of the county and subject to Type 2 status, if all of the following apply: (a) the juvenile has been found to be delinquent for an act that would be punishable by a sentence of six months or more, if committed by an adult; and (b) the juvenile has been found to be

a danger to the public and to be in need of restrictive custodial treatment. This disposition provides the court with an alternative to placement in a juvenile correctional facility for appropriate juveniles. It also provides the counties with the ability to administratively transfer a juvenile who violates a condition of his or her placement in the Type 2 residential care center for children and youth to a juvenile correctional facility, without a hearing, for not more than 10 days.

DOC may contract with a child welfare agency to operate a Type 2 facility in the community. As of December, 2010, there are 9 licensed child welfare agencies authorized to operate 15 designated Type 2 facilities. The concept of Type 2 status is also used for other departmental programs. Juveniles placed by DOC in the Corrective Sanctions Program (described in greater detail in a later section of this paper) are under Type 2 status when placed in the community, as well as juveniles placed in the Serious Juvenile Offender Program.

In October, 2010, there were 34 juveniles receiving care in Type 2 facilities.

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### **Serious Juvenile Offender Program**

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The Serious Juvenile Offender (SJO) program was created under 1995 Wisconsin Act 27. Under the program, a juvenile is subject to an SJO placement for certain acts, as follows: (a) if the juvenile is 14 years of age or more and has been adjudicated delinquent for committing a delinquent act that is equivalent to certain Class A, Class B, or Class C felony offenses; or (b) the juvenile is 10 years of age or more and has been adjudicated delinquent for attempting or committing first-degree intentional homicide or for committing first-degree reckless homicide or second-degree intentional homicide. An SJO disposition may only be made for these juveniles if the judge finds that the only other disposition that would be appropriate is placement in a juvenile correctional facility.

For a juvenile receiving a disposition as a Serious Juvenile Offender, the court is required to make the order apply for a period of five years if the adjudicated act was a Class B or Class C felony offense, or until the juvenile reaches 25 years of age if the adjudicated act was a Class A felony offense. The disposition includes the concept of Type 2 status, which allows the Department to administratively transfer a juvenile through an array of component phases, including both juvenile correctional facility and community placements.

All components of the SJO disposition, described below, are state funded; counties have no financial responsibility for a juvenile placed in the SJO program. The SJO program is funded under a separate appropriation (with 2010-11 funding of \$18.6 million) and is authorized to pay the costs of: (a) the care of juveniles, including aftercare services, who have been adjudicated as serious juvenile offenders; and (b) the care of juveniles waived into adult court and sentenced to state prison, but placed by DOC at a juvenile correctional facility or a secured residential care center for children and youth. Counties are required to pay the costs of all other adjudicated juveniles. The average daily population for the SJO program was 287 in 2009-10.

Under the SJO program, a juvenile is subject to supervision, care and rehabilitation that is more restrictive than ordinary supervision in the community. The program provides for component phases (various sanctions) that are intensive, highly structured and based on both public safety considerations and the participant's needs. The Department of Corrections determines that one or more component phases are provided to each juvenile in the program. The Department is authorized to contract with the Department of Health Services, a county department or any public or private agency for the purchase of goods, care and services for SJO participants. The available component phases include the following:

- Placement in a juvenile correctional facility or a secured residential care center for children and youth for a period of not more than three years

(except that, if the juvenile committed a Class A felony offense, he or she is subject to a mandatory minimum period of confinement of not less than one year and no maximum period of confinement, within the duration of the order).

- Placement in alternate care, including placement in a foster home, treatment foster home, group home, residential care center, or secured care center for children and youth.

- Intensive or other field supervision, including corrective sanctions supervision or aftercare supervision.

- Electronic monitoring.

- Substance abuse outpatient treatment and services.

- Mental health treatment and services.

- Community service.

- Restitution.

- Transitional services for education and employment.

- Other programs as prescribed by DOC.

Prior to July 3, 1998, Wisconsin law provided that an SJO participant, age 17 or older, could be placed in an adult prison as a component phase of the SJO program. In addition, DOC had statutory authority to transfer a juvenile to the Racine Youthful Offender Correctional Facility, an adult prison, if the juvenile was 15 years of age or more and the Office of Juvenile Offender Review determined that the conduct of the juvenile in a juvenile correctional facility presented a serious problem to the juvenile or others.

However, on July 3, 1998, the Wisconsin Supreme Court decided that the placement of juveniles in an adult prison, based on a juvenile adjudication process that does not allow for a jury trial, was unconstitutional in violation of Article I, s. 7 of the Wisconsin Constitution and the 6<sup>th</sup> and 14<sup>th</sup> Amendments of the U. S. Constitution (*State of Wis-*

*consin v. Hezzie R.*)

The Department may provide the sanctions listed above in any order, provide more than one sanction at a time and return to a sanction that was used previously for a participant. A participant is not entitled to a hearing on the Department's exercise of authority regarding the selected sanctions unless a hearing is required by rule. (The community placement components under SJO are classified as Type 2 secured correctional placements. Such placements allow DOC to provide less restrictive placements while keeping the juvenile in a custodial status that allows for a return to a more restrictive placement, without a hearing, if the conditions of the placement are violated by the juvenile.)

A juvenile under the SJO program always begins his or her placement in a juvenile correctional facility. The Office of Juvenile Offender Review has the authority to release a participant to aftercare supervision at any time after the participant has completed two years of participation in the SJO program. Aftercare supervision under SJO is provided by DOC at state expense. The Department may discharge a participant from the program and from DOC supervision and control at any time after the participant has completed three years of participation in the program.

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### **Other Placement Alternatives Operated by the State**

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Two alternative programs for juveniles placed at juvenile correctional facilities are available under current law: the juvenile corrective sanctions program and the SPRITE program.

#### **Juvenile Corrective Sanctions Program**

Under current law, DOC is required to provide a corrective sanctions program to serve an average daily population of 136 juveniles (or more, if additional funding and positions are provided by

the Joint Committee on Finance or otherwise become available) in not less than three counties, including Milwaukee County. The Office of Juvenile Offender Review evaluates and selects juveniles for the program who have been placed in a juvenile correctional facility. Under the program, a juvenile is placed in the community and provided with intensive surveillance. In addition, an average of not more than \$3,000 annually is provided to purchase community-based treatment services for each corrective sanctions slot. Funding for the corrective sanctions program in 2010-11 is \$4.5 million, with 46.3 positions allocated to the program. Any county may request corrective sanctions services and, from January through October in 2010, 16 counties had been billed for corrective sanctions services.

The intensive surveillance component of the program must be available 24 hours a day, seven days a week, and DOC may provide electronic monitoring of program participants. Corrective sanctions caseloads are specified by statute. A contact worker providing services under the program has a caseload of approximately 10 juveniles and, during the initial phase of placement in the community, the contact worker must have at least one face-to-face contact per day with the juvenile. Contact workers may be juvenile corrections probation and parole agents, juvenile corrections youth counselors or, in rural areas, contracted individuals or private agencies serving as a contact worker.

Case management services are provided by a juvenile corrections probation and parole agent, who has a caseload of approximately 15 juveniles. The Department must also provide a report center in Milwaukee County to provide on-site programming after school and in the evening for juveniles from Milwaukee County who are placed in the corrective sanctions program. The center also houses an alternative school operated by the Milwaukee Metropolitan School District providing educational programming to an average of 10 to 12 juveniles each school day.

A participant in the program remains under the supervision of DOC and in Type 2 status. If a juve-

nile violates a condition of the program, DOC may, without a hearing, take the juvenile into custody and place the juvenile in a juvenile detention facility or return the juvenile to a juvenile correctional facility or a secured residential care center for children and youth.

### **SPRITE Program**

Male juveniles placed in juvenile correctional facilities may also participate in SPRITE (Support, Pride, Respect, Initiative, Teamwork, Education), a 25-day intensive, adventure-based education program held off-grounds (Oregon, Wisconsin). The program is designed to teach juveniles problem solving, independent living skills, responsibility through wilderness expeditions, rock climbing, problem-solving exercises, urban exploration, and community service. The program can serve 12 juveniles per month. The program also accepts juveniles directly from counties.

Girls at the Southern Oaks Girls School may participate in a separate program that currently operates one or two, eight-day sessions annually.

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### **Recidivism of Juvenile Offenders**

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The effectiveness of correctional programs is often measured by examining recidivism rates. Although there are many ways to measure recidivism, reduction in the frequency and severity of offenses committed by juveniles following release is an important measure of program effectiveness. Previously, the Department defined recidivism as youth who were released from a juvenile correctional facility and returned to either a juvenile correctional facility with a new adjudication or sentenced to a new adult prison within a two-year period after release; or youth who were transferred to an adult prison directly from a juvenile correctional facility as a result of a new sentence within a two-year period after release.

In order to align recidivism measures departmentwide, the Department changed its definition of juvenile recidivism to be a youth committed to the Division of Juvenile Corrections, who within three-years after release in the community commits a new offense resulting in a court disposition involving the Department. This new definition of recidivism differs from the prior definition in four ways: (a) it increases the reviewed time period from two years to three years; (b) juveniles ordered to probation are now included; (c) the event of recidivism assumes the date of the offense as opposed to the date of commitment; and (d) it only includes time in the community, so youth transferred to an adult prison directly from a juvenile facility as the result of a new sentence are no longer included. The updated definition generally results in a higher recidivism rate.

Reviewing juveniles released in 2006 (allowing for a three-year follow up through 2009), 483 juveniles were released in 2006 from juvenile correctional facilities, with 286 returning to either a juvenile correctional facility, an adult prison, or placed on probation for a new offense, a recidivism rate of 59.2%. The majority of recidivists resulted in probation placements (previously excluded from prior recidivism rates). This data is presented in Table 2 for each of the juvenile facilities in operation during these years. Recidivism was significantly higher for male juveniles (62.1%), than for female juveniles (33.3%).

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### **Youth Aids**

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Under current law, counties are financially responsible for the costs of juvenile delinquency-related services, except for: (a) the care of a juvenile who has been adjudicated as a serious juvenile offender; (b) juveniles under the original jurisdiction of or waived into adult court and sentenced to state prison, but placed by DOC at a juvenile facility; (c) correctional or aftercare services for juveniles adjudicated as violent juvenile offenders for certain

**Table 2: Three-Year Recidivism of Released Juveniles -- Calendar Year 2006**

Released From	Number Released	Returned to Juvenile Facility Only	Returned to Prison Only	Returned to Probation	Total Returned	Recidivism Rate
Ethan Allen School	193	11	45	78	134	69.4%
Lincoln Hills School	216	10	23	87	120	55.6
Mendota Juvenile Treatment Center	<u>26</u>	<u>2</u>	<u>0</u>	<u>14</u>	<u>16</u>	61.5
Subtotal Boys	435	23	68	179	270	62.1%
Southern Oaks Girls School	<u>48</u>	<u>1</u>	<u>0</u>	<u>15</u>	<u>16</u>	33.3%
Total	483	24	68	194	286	59.2%

offenses committed prior to July 1, 1996; and (d) juveniles under extended jurisdiction orders prior to July 1, 1996, who receive juvenile services.

The community youth and family aids program (youth aids) provides each county with an annual allocation of state and federal funds from which a county may pay for juvenile delinquency-related services, including out-of-home placements and non-residential, community-based services for juveniles. Counties may supplement their expenditures on juvenile delinquency-related services with funding from other sources, including community aids, other state aids to counties, county tax revenues and special grant monies.

The state bills each county for the cost of its juveniles placed in the state's juvenile correctional facilities (with the exceptions noted above) and for subsequent community placements and programming for juveniles returning to the community following placement in a juvenile correctional facility. Charges are based on statutory daily rates established under each biennial budget. Daily rates for a given year are calculated by dividing the total budget for each type of care by the projected number of juveniles expected to receive that type of care in a year, divided by 365 days. Table 3 shows the statutory daily rates for the period July 1, 2010, through June 30, 2011. Based on the statutory rate, a one-year juvenile correctional facility placement would cost \$100,375.

**Table 3: Statutory Daily Rates, July 1, 2010 - June 30, 2011**

	Amount
Juvenile Correctional Facilities*	\$275
Residential Care Center	313
Group Homes	200
Corrective Sanctions	103
Treatment Foster Homes	130
Regular Foster Homes	75
Aftercare Supervision	41

\*Includes transfers to the Mendota Juvenile Treatment Center.

Table 4 summarizes youth aids funding levels by fiscal year for the period 2008-09 through 2010-11. As shown in Table 4, current law provides a total of \$100,790,200 (\$98,341,000 GPR and \$2,449,200 PR) in the second year of the 2009-11 biennium in youth aids funding for counties. The program revenue funding comes from federal funds received by the Department of Health Services (DHS) and transferred to DOC for out-of-home care for certain eligible juveniles. Increased funding for youth aids was provided in the 2007-09 biennial budget act and totaled \$10.5 million in 2007-08 and \$12.5 million in 2008-09. Further, in the 2009-11 biennial budget act, GPR funding was reduced by \$11,801,000 and replaced with federal economic stimulus monies on a one-time basis in 2009-10.

**Table 4: Total Youth Aids Funding - By Funding Source**

Fiscal Year	2008-09	2009-10	2010-11
GPR Funding	\$98,341,000	\$86,540,000	\$98,341,000
FED Funding	0	11,801,000	0
PR Funding	<u>2,449,200</u>	<u>2,449,200</u>	<u>2,449,200</u>
Total All Funds	\$100,790,200	\$100,790,200	\$100,790,200

### Historical Development of Youth Aids Funding

The youth aids program was enacted as part of Chapter 34, Laws of 1979. Prior to the establishment of youth aids, each county social service agency paid for community-based juvenile delinquency programs with its community aids allocation and county funds. However, counties were not financially responsible for juveniles that were placed in the state's secured juvenile correctional institutions. Concerned that the system created a fiscal incentive for counties to recommend the placement of juveniles in secure care, the Legislature enacted the youth aids program. Under youth aids, counties assumed responsibility for the costs of caring for juveniles placed at the juvenile correctional institutions, thereby eliminating the financial incentive to place juveniles at the institutions. The state, in turn, allocated funds that were formerly appropriated to the Department of Health and Social Services for operating the juvenile correctional schools, state aftercare and alternate care to the counties through youth aids.

The youth aids program was implemented over a two-year period. In 1980, 10 pilot counties received youth aids formula funding as well as capacity building funds for the development of community programs. In 1981, approximately \$25.5 million in youth aids base funding was distributed among all 72 counties. Additional capacity building money was also provided in 1981. Counties were also required to determine the amount of community aids and other funding they expended on the youth aids target population in 1979. Counties were required to expend this amount as a maintenance of effort before they could expend

youth aids funds. In 1988, over \$26 million in community aids funding earmarked for juvenile delinquency-related services (the youth aids maintenance-of-effort) was transferred from community aids to youth aids and was consolidated within youth aids base funding.

### Youth Aids Allocations

*Original Allocation.* Counties' original base youth aids allocations were determined by a three-factor formula with an additional override factor. The basic formula calculated each county's percentage of: (a) the total state juvenile population (ages 0 through 17) in 1979; (b) statewide juvenile arrests for Part I crimes as defined by the federal Uniform Crime Reporting System for the period 1975 to 1978; and (c) statewide secured juvenile correctional placements for the same period. The override factor provided that no county could receive an allocation which was less than 93% nor more than 115% of the amount it would have received if juvenile correctional placements were the sole factor used to determine county allocations.

A second override factor was soon enacted, effective January 1, 1982. This new factor provided that no county would receive less than \$19,000 or less than 65% of the amount it would have received by using the three-factor formula. The first of these two override factors had the effect of placing greater emphasis on juvenile correctional institution placements in that minimum and maximum allocations were established based on the variation of placement rates from the average rate under all three factors. The second override factor ensured a minimum allocation to certain smaller counties.

While funding levels have increased since the youth aids program was implemented, the initial base funding provided to counties has continued to be distributed according to the initial, three-factor formula plus override provisions, and has not been updated for current population, arrest and placement data.



*Previous Youth Aids Funding Adjustments.* Youth aids funding has historically been adjusted as part of the state's biennial budget process. Some funding increases become a part of each county's continuing base allocation after an initial distribution is made. For example, under previous law, if the daily rate for the juvenile correctional facilities, alternate care, state aftercare or corrective sanctions increased, the state was required to increase the total youth aids funds available to counties proportionately. (This statutory requirement was eliminated, effective July 1, 1996, under 1995 Wisconsin Act 27.) Typically, youth aids funding provided in prior years to offset rate increases was distributed to counties as a separate allocation during the year it was initially provided. The distribution was based on each county's relative usage (over the previous three years) of each of the state-provided services for which the daily rate increased. In subsequent years, that amount was incorporated into each county's continuing base allocation. For example, if a county received a youth aids increase of \$5,000 in a given year for a juvenile correctional institution rate increase and \$500 for a state aftercare rate increase, a total of \$5,500 would be incorporated into the county's base youth aids allocation in the following year.

Similarly, inflationary increases for community programs (which were also eliminated under 1995 Wisconsin Act 27) were initially distributed separately, based on each county's relative portion of the statewide annual average balance of youth aids funding available for community programs over the previous three years. In subsequent years these amounts would be incorporated into the county's continuing base youth aids allocation.

Over time, therefore, each county's base allocation consisted of the sum of: (a) its original base allocation, with override factors; (b) its share of increased funding provided in the past to offset daily rate increases; and (c) its share of any past inflationary increases provided in the past for community programs.

*Other Youth Aids Components.* Within the base

funding amount, however, there is a share of funding that is adjusted annually, relating to \$1,333,400 that is designated for alcohol and other drug abuse (AODA) treatment programs. This earmarked funding is allocated each year on the basis of each county's youth aids balance available for community expenditures for the previous three calendar years divided by the statewide community programs balance. While considered a base allocation, the amount distributed to each county varies annually and is not incorporated as a fixed amount into a county's overall base allocation.

Further, recent biennial budget increases are also currently reallocated between counties according to certain criteria. These annual reallocations are required by statute to continue through the first six months of 2011 (that is, through the end of the 2010-11 fiscal year). The Legislature may, or may not, extend the required annual reallocation of these funds beyond 2010-11. The increases were initially provided in 1999 Wisconsin Act 9 and 2001 Wisconsin Act 16, and have been extended ever since.

Under 1999 Act 9, \$4.0 million in 2000-01 was provided as an increase to youth aids and is required to be reallocated each calendar year (through the first six months of 2011) based on three equally-weighted factors. The three factors are: (a) each county's proportion of the total statewide juvenile population for the most recent year for which that information is available; (b) each county's proportion of the total Part I juvenile arrests reported statewide under the uniform crime reporting system of the Office of Justice Assistance during the most recent three-year period for which that information is available; and (c) each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility, a secured residential care center for children and youth or a secured group home during the most recent three-year period for which that information is available. (In making the initial 2011 county allocations to counties, DOC has assumed this funding will be continued in the 2011-13 biennial budget and reallocated \$4,000,000 in 2011 according to the

three-factor formula, updated for recent data. This funding is shown separately in Appendix VI.)

Under 2001 Act 16, an increase of \$2,106,500 was provided in 2002-03 and is required to be reallocated each calendar year (through the first six months of 2011) based on the three factors described above, plus an additional override factor. The override factor provides that no county will receive an allocation of this additional funding that is less than 93%, nor more than 115% of the amount it would have received if juvenile correctional placements (the third factor in the three-factor formula) were the sole factor used to determine county allocations. (In making the initial 2011 county allocations to counties, DOC assumed this funding will be continued in the 2011-13 biennial budget and reallocated \$2,106,500 in 2011 according to the three-factor formula and override provision, updated for recent data. This funding is also shown separately in Appendix VI.)

Under 2007 Act 20, \$23.0 million was provided for the 2007-09 biennium, with \$10.5 million to be allocated in 2007-08 and \$12.5 million to be allocated in 2008-09. Allocations are based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period for which information is available.

In addition to these provisions, there are several other components of youth aids funding that are allocated annually on the basis of varying criteria. These include: (a) a supplement of \$2,124,800 annually in corrective sanctions funding, provided to counties on the basis of the number of approved corrective sanctions slots utilized by each county in that year (with funding allocated following close of calendar year); (b) emergency funds totaling \$250,000 annually awarded to counties with populations under 45,000 that demonstrate unplanned but appropriate juvenile correctional facility or residential care center placements; and (c) a non-statutory arrest supplement of \$200,000 annually for counties with populations under 50,000, based on each county's share of Part I juvenile arrests for

all counties under 50,000 in the two most recent years for which data is available. (The arrest supplement provision was repealed under 1995 Act 27, but the associated funding was not deleted. The Department continues to allocate the funding as it was allocated prior to the repeal.)

Finally, certain adjustments to county youth aids funding are made to reflect overpayments or under-spending by counties. First, if moneys generated by the daily rate exceed actual fiscal year foster care, treatment foster care, group home care and institutional child care costs by 2% or more, all moneys in excess of 2% must be remitted to the counties during the subsequent calendar year (or transferred to a DOC appropriation account during the subsequent fiscal year to reflect such overpayments by the state for serious juvenile offenders). Each county and DOC must receive a proportionate share of this excess revenue depending on the total number of days of placement in foster care, treatment foster care, group home care or institutional child care. Counties are required to use these funds for juvenile delinquency purposes.

DOC may carry forward for a county from one calendar year to another youth aids funds that are not spent or encumbered. The amount of carryover for a county may not exceed 5% of the amount allocated to the county for the 12-month period ending December 31 of a given year. The funds carried forward do not affect a county's base youth aids allocation. (A state carryover provision, as described in Appendix VI, may also result in additional funding for some counties.)

An explanation of each component of the annual youth aids funding allocation to counties is provided in Appendix VI. In summary, these allocation components are as follows:

- Base allocation
- Alcohol and other drug abuse base allocation
- 1999 Act 9 increase (\$4.0 million annually)
- 2001 Act 16 increase (\$2.1 million annually)
- 2007 Act 20 increase (\$23.0 million biennially)

- Arrest supplement for small counties
- Correctional refunds
- Corrective sanctions funds
- Emergency funds
- County and state carryovers

*Current County Youth Aids Allocations.* Based on these components of youth aids funding, the initial 2009 allocations to counties total \$98.4 million. This amount does not include \$2.1 million in corrective sanctions funds, \$250,000 in emergency funds, or county carryover amounts, which are allocated late in, or following the close of, the calendar year. Because the state budgets on a July 1 to June 30 fiscal year basis, only the first six months of youth aids funding for 2011 has been appropriated by the Legislature. Counties have been notified that an estimated total of \$98.5 million in youth aids funding (excluding corrective sanctions and emergency funding not yet allocated) will be provided in 2011, based on the assumption that the Legislature will appropriate the same amount in the second half of calendar year 2011 as it did in the first half. The actual youth aids allocation for 2011 could be higher or lower depending on the Legislature's action in the 2011-13 biennial budget.

Appendix VII shows the initial youth aids allocation to each county in 2010.

### **Factors Affecting Juvenile Facility Care Costs**

While additional funding was provided to increase youth aids in the 2007-09 biennial budget, the state has attempted to relieve county spending for juvenile correctional costs through other budgetary means. Under this approach, budget provisions have been enacted that provide financial benefits to counties that place juveniles in juvenile correctional facilities by lowering the daily rate for juvenile correctional facility care. As noted above, the projected cost for a given type of care and population projections are used to establish daily rates.

Daily rate reductions relating to juvenile correctional facilities are accomplished both by

directly reducing the costs of facility care and by partially funding certain juvenile facilities with GPR funds. (These provisions affect the daily rates for facility care, but do not affect the daily rates for other types of juvenile care.)

With respect to reducing facility costs, several legislative actions have been taken in over the years. In 1999 Act 9, \$1,273,900 GPR in 1999-00 and \$1,379,300 GPR in 2000-01 was provided to partially fund the cost of care for juveniles at the Mendota Juvenile Treatment Center (MJTC). Base funding of \$1,379,300 GPR annually continues to be provided for this purpose. This funding results in the deletion of equivalent amounts of program revenue for this purpose, thus reducing daily rates for facility care. Under 2001 Act 16 \$2,172,400 PR annually was deleted relating to the funding of 53.25 vacant positions. Under 2003 Act 33, two cost-reduction actions were taken: (a) \$2,615,200 PR and 46.0 PR positions annually were deleted relating to the elimination of the juvenile boot camp program; and (b) \$3,591,200 PR and 46.04 PR positions annually were deleted from other juvenile correctional facility operations. Finally, in 2005 Act 25, \$320,600 PR and 7.0 PR positions annually were deleted from juvenile correctional facility operations, while \$3,117,400 PR and 14.92 PR positions annually were deleted in the 2007-09 budget act. All of these reductions reduce the cost basis for the calculation of daily rates for care in juvenile correctional facilities, resulting in lower daily rates for facility care.

Such spending reductions have been made possible in large part because of the decline in average daily populations in recent years at the juvenile correctional facilities. Appendix V shows that populations at juvenile correctional facilities have declined 54.6% between 2000 and 2010. However, a population decline of this magnitude has resulted in increasing daily rates for facility care during this period, despite the cost reduction measures described above. Consequently, daily rates have increased by over 64% between 2001-02 and 2010-11. Thus, the annual cost for a single juvenile placement for a one-year period has increased from

\$61,200 in 2001-02 to \$100,375 in 2010-11.

It should be noted that in April, 2010, the Governor appointed a committee to review juvenile correctional operations and provide recommendations regarding the best correctional environment for delinquent youth to "enable them to learn, grow, and change their behavior for successful community reintegration." In June, the committee submitted a report to the Governor and Department, with five final recommendations. It should be noted that in voting on the recommendations, a majority of the committee voted to endorse all but the first recommendation. According to the committee report, the first recommendation did not receive sufficient votes for endorsement.

The final recommendations of the committee stated:

"1. The committee believes that it is not fiscally or programmatically feasible to continue to operate two male juvenile correctional institutions and that the department should proceed with consolidation of Ethan Allen and Lincoln Hills as a first step toward significant system change. Although the vote of the membership is reflected in the [committee's report], the committee does not make a formal recommendation as to which JCI should be closed.

2. The committee recommends that the department appoint an advisory group to assist with transition/consolidation efforts if/when they occur. This committee may be made up of parents, county staff, service providers, members of the faith community, youth advocates, or others who have a stake in the success of the transition. The immediate purpose of the advisory group is to assist the department in making a transition that maintains the high quality of existing programs and supports communications with critical stakeholders.

3. The committee recommends that following the transition/consolidation attention be turned to

a collaborative process with counties to revisit opportunities for continued improvements in the juvenile justice system including improvements in the Youth Aids funding system and potentially suggesting alternative funding options.

4. The committee recommends that additional fiscal measures be taken to lower or slow the rate of growth in the daily rate(s), including: (1) utilizing funds from general school aids to pay an appropriate share of the school costs at the institutions, (2) funds generated through participation in the federally supported school breakfast/lunch program be applied as revenue to the division, and (3) appropriate fixed operational costs (e.g., utilities and maintenance costs) be supported by general program revenue rather than being included in the daily rate(s).

5. The committee recommends DJC Administrator Margaret Carpenter for the changes that have been made over the last 18-20 months in the division and makes a recommendation that Margaret Carpenter be retained as DJC administrator in the next administration."

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### **Other State Funding for Juvenile Delinquency-Related Services**

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In addition to youth aids, the state provides significant amounts of funding to counties through community aids, other general state aids and grants which counties may use to offset the costs of providing juvenile delinquency-related services. The state also provides direct funding for institutional and administrative costs, as discussed below.

### **Other State Aids to Counties**

*Community Aids.* State funding through community aids (in the Department of Health Services) and children and family aids (in the Department of Children and Families) is provided to counties for

human services in several broad functional areas, including social services for juvenile offenders. Of the estimated \$257.4 million provided in calendar year 2011, \$239.1 million, or 93%, represents the basic county allocation; this funding may be spent for any eligible community aids or children and family aids service. The remainder is provided to counties or tribes for five categorical allocations. Counties are required to provide a local match of 9.89% to the basic county allocation and one of the five categorical allocations. Counties that exceed their youth aids allocation for juvenile delinquency-related expenditures may use community aids funds to provide social services for juvenile offenders.

*Community Intervention Program.* DOC distributes \$3.7 million GPR annually for early intervention services for first-time juvenile offenders and for intensive community-based intervention services for seriously chronic juvenile offenders. The community intervention program was formerly termed capacity building funds. Funding is distributed to eligible counties using a formula that calculates each county's allocation on the basis of data for the previous two years, as follows:

- 33% of the funds are allocated on the basis of juvenile arrests for Part I violent crimes (murder, forcible rape, robbery and aggravated assault);
- 34% of the funds are allocated on the basis of juvenile arrests for all Part I crimes (violent crime plus serious property crimes); and
- 33% of the funds are allocated on the basis of juvenile correctional placements.

In order to be eligible to receive community intervention program funds, a county must submit a plan to DOC that ensures that the county targets the funding to appropriate programs. The plan must include measurable objectives and an evaluation of the preceding year's activities.

*Youth Diversion Program.* The youth diversion program provides grants from a mix of GPR, pro-

gram revenue, and federal funding to a limited number of local organizations to support gang diversion programming. In 2010-11, a total of \$1,385,400 is budgeted for youth diversion programming.

For more information on youth diversion funding, see Legislative Fiscal Bureau informational paper "State Criminal Justice Functions."

*Shared Revenue and County and Municipal Aid.* Through the shared revenue and county and municipal aid programs, Wisconsin distributes state tax revenues to county governments to use at their discretion for any service provided by the county. In 2011, counties are estimated to receive \$31.6 million from the utility aid appropriation (shared revenue), and \$151.7 million under the county and municipal aid program.

*Grants through the Office of Justice Assistance.* As discussed above in the section on secure detention, OJA has federal funding for the 2010 federal fiscal year of \$978,000 under the Juvenile Justice Delinquency Prevention Act (JJDP). The Office indicates that approximately 80% of these formula grant funds under JJDP are distributed to local governments for juvenile justice programs, including delinquency prevention, early intervention and other services and efforts to reduce the overrepresentation of minorities in secure juvenile facilities.

## **Direct State Funding**

The state directly funds the costs of correctional care, alternate care and aftercare for serious juvenile offenders. The state also funds the correctional, parole, extended supervision, and probation costs of all juveniles sentenced under the original jurisdiction of an adult court or who are waived into adult court and sentenced to prison or probation, under either adult or juvenile corrections state funding. For juveniles that fall into these categories, counties are no longer responsible for the cost of their correctional care.

The state also directly funds certain administra-

tive costs of the Division of Juvenile Corrections in DOC. In 2010-11, \$1.1 million GPR was appropriated for the general program operations of the Division.

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## **Community-Based Juvenile Justice Programs**

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Studies have indicated that an effective and comprehensive community juvenile justice program should include a sufficient range of services to meet the needs of juveniles entering the juvenile justice system. Wisconsin counties either directly provide or contract with private organizations to provide a wide variety of community-based programs and services for juvenile delinquents and juveniles at risk of becoming delinquents. Some common non-residential community programs include early intervention programs, day treatment programs, intensive supervision programs and restitution programs. The following sections provide a brief summary of these major types of community-based programs.

### **Early Intervention Programs**

Early intervention programs encompass a variety of programs targeting juveniles at risk of committing delinquent acts or juveniles who have committed a minor offense and are at risk of further delinquent behavior. They include school programs designed to: (a) identify children at risk and intervene to strengthen the skills of the children and their families; (b) provide volunteer programs linking juveniles at risk with adult mentors; and (c) provide individual counseling and treatment programs and intensive in-home family treatment programs.

### **Day Treatment Programs**

Day treatment programs generally provide specialized educational programming for delinquent juveniles in a structured, self-contained environment. Services may also include individual, group

and/or family counseling, structured recreational activities and supervised work programs. Juveniles are on-site during the school day and remain on-site for additional after-school activities at some day treatment programs.

### **Intensive Supervision Programs**

Counties are also authorized to provide intensive supervision for juveniles who have been adjudicated delinquent and ordered to participate in an intensive supervision program. Under the program, a county must purchase or provide intensive surveillance and community-based treatment services for participants. Electronic monitoring may also be provided. A caseworker providing intensive supervision services may not have a caseload of more than 10 juveniles and must have at least one face-to-face contact per day with each juvenile. If a juvenile violates a condition of the program, the juvenile's caseworker or other authorized person may, without a hearing, take the juvenile into custody and place the juvenile in a juvenile detention facility for not more than 72 hours while the alleged violation is being investigated. Placement in a juvenile detention facility for up to 72 hours is also a possible sanction for violating a condition of the program. If the juvenile is held in a juvenile detention facility for more than 72 hours, he or she has a right to a hearing. The caseworker may also, without a hearing, take the juvenile into custody and place the juvenile in a place of nonsecure custody for not more than 30 days as crisis intervention, if the juvenile is in need of crisis intervention.

### **Restitution Programs**

If a juvenile commits an offense which results in damage to the property of another or physical injury to another, excluding pain and suffering, a court may order the juvenile (either alone or with the assistance of a parent with custody of the juvenile) to make reasonable restitution for the damage or injury as a condition of a deferred prosecution agreement, a consent decree or as part of a formal delinquency disposition. Restitution programs attempt to restore the losses of the victim as well as

hold offenders accountable for their actions. Forms of restitution include: (a) monetary restitution requiring a juvenile to make payments to compensate the victim for damages; (b) community service requiring a juvenile to provide meaningful work to the community rather than monetary compensation; (c) direct victim services, if the victim agrees, requiring a juvenile to work for the victim to repair damage done; and (d) victim-offender reconciliation wherein, with the victim's consent, the victim

and the offender meet with a professional mediator to discuss the offense.

To enter a restitution program, a finding must be made that the juvenile alone (or a parent, if applicable) is financially able to pay or that the juvenile is physically able to perform the services. Juveniles under 14 years of age cannot be ordered to make more than \$250 in restitution or perform more than 40 hours of services for the victim.





## Appendices

Appendices to this paper provide the following summary data pertaining to Wisconsin's juvenile justice system:

Appendix I	State of Wisconsin Total Juvenile Arrests, 1999 through 2008
Appendix II	State of Wisconsin Juvenile Arrest Rates, 1999 through 2008
Appendix III	Juvenile Arrests by Wisconsin County, 2008
Appendix IV	Dispositional Options Available to the Juvenile Court for Delinquency Adjudication
Appendix V	Average Daily Populations of Juvenile Correctional Facilities, 2000-2010
Appendix VI	Youth Aids Formula -- Calendar Year 2010 Allocations
Appendix VII	2010 Youth Aids Allocations by County

## APPENDIX I

### State of Wisconsin Total Juvenile Arrests 1999 through 2008

Offense	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	% Change 1999-2008	10-Year Average
Murder	163	134	147	112	132	288	13	23	23	31	-81.0%	107
Forcible Rape	176	216	192	244	196	253	223	147	176	155	-11.9	198
Robbery	639	491	536	578	510	554	475	622	675	654	2.3	573
Agg. Assault	<u>1,304</u>	<u>1,089</u>	<u>1,068</u>	<u>1,220</u>	<u>1,131</u>	<u>1,001</u>	<u>873</u>	<u>982</u>	<u>919</u>	<u>818</u>	-37.3	<u>1,041</u>
<b>Total Violent</b>	<b>2,282</b>	<b>1,930</b>	<b>1,943</b>	<b>2,154</b>	<b>1,969</b>	<b>2,096</b>	<b>1,584</b>	<b>1,774</b>	<b>1,793</b>	<b>1,658</b>	<b>-27.3%</b>	<b>1,918</b>
Burglary	2,566	2,519	2,210	2,424	2,292	2,023	1,768	1,892	1,961	1,651	-35.7%	2,131
Theft	17,356	15,978	15,880	16,209	14,991	14,560	12,669	12,294	12,957	12,821	-26.1	14,572
Auto Theft	2,103	1,498	1,482	1,266	1,224	1,012	1,288	1,362	1,049	778	-63.0	1,306
Arson	<u>221</u>	<u>210</u>	<u>164</u>	<u>182</u>	<u>176</u>	<u>189</u>	<u>172</u>	<u>168</u>	<u>121</u>	<u>97</u>	-56.1	<u>170</u>
<b>Total Property</b>	<b>22,246</b>	<b>20,205</b>	<b>19,736</b>	<b>20,081</b>	<b>18,683</b>	<b>17,784</b>	<b>15,897</b>	<b>15,716</b>	<b>16,088</b>	<b>15,347</b>	<b>-31.0%</b>	<b>18,178</b>
Status Offenses	33,252	29,036	27,095	26,473	24,028	21,967	22,964	23,053	22,273	21,200	-36.2	25,134
Other Offenses*	<u>80,092</u>	<u>77,924</u>	<u>75,680</u>	<u>73,752</u>	<u>72,544</u>	<u>71,761</u>	<u>68,240</u>	<u>69,275</u>	<u>64,737</u>	<u>62,539</u>	-21.9%	<u>71,654</u>
<b>Total Arrests</b>	<b>137,872</b>	<b>129,095</b>	<b>124,454</b>	<b>122,460</b>	<b>117,224</b>	<b>113,608</b>	<b>108,685</b>	<b>109,818</b>	<b>104,891</b>	<b>100,744</b>	<b>-26.9%</b>	<b>116,885</b>

\* Includes negligent manslaughter (a Part I offense) and all Part II offenses excluding status offenses.

## APPENDIX II

### State of Wisconsin Juvenile Arrest Rates Number of Arrests Per 100,000 Juveniles 1999 through 2008

Offense	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	% Change 1999-2008	10-Yr. Average
Murder	12	10	11	8	9	20	1	2	2	2	-80.3%	8
Forcible Rape	13	16	14	18	14	18	16	11	13	12	-9.2	15
Robbery	46	36	39	42	36	39	35	46	50	50	8.3	42
Agg. Assault	<u>94</u>	<u>80</u>	<u>78</u>	<u>88</u>	<u>81</u>	<u>71</u>	<u>64</u>	<u>72</u>	<u>68</u>	<u>62</u>	-33.7	<u>76</u>
Total Violent	164	142	141	155	141	149	116	131	133	126	-23.0%	140
Burglary	184	186	160	174	164	143	130	139	145	126	-31.7%	155
Theft	1,246	1,179	1,153	1,165	1,071	1,032	930	906	958	977	-21.6	1,062
Auto Theft	151	111	108	91	87	72	95	100	78	59	-60.8	95
Arson	<u>16</u>	<u>16</u>	<u>12</u>	<u>13</u>	<u>13</u>	<u>13</u>	<u>13</u>	<u>12</u>	<u>9</u>	<u>7</u>	-53.8	<u>12</u>
Total Property	1,597	1,492	1,433	1,444	1,334	1,260	1,167	1,158	1,189	1,169	-26.8%	1,324
Status Offenses	2,388	2,143	1,968	1,904	1,716	1,557	1,686	1,699	1,646	1,615	-32.4%	1,832
Other Offenses*	<u>5,751</u>	<u>5,752</u>	<u>5,496</u>	<u>5,303</u>	<u>5,181</u>	<u>5,086</u>	<u>5,011</u>	<u>5,104</u>	<u>4,784</u>	<u>4,764</u>	-17.2%	<u>5,223</u>
Total Arrests	9,901	9,530	9,037	8,805	8,372	8,052	7,982	8,092	7,752	7,674	-22.5%	8,520
Juvenile Population	1,392,554	1,354,673	1,377,114	1,390,743	1,400,133	1,410,904	1,361,705	1,357,139	1,353,148	1,312,805	-5.7%	1,371,092

\*Includes negligent manslaughter (a Part I offense) and all Part II offenses excluding status offenses.

**APPENDIX III**

**Juvenile Arrests by Wisconsin County, 2008**

County	Juvenile Population	Total Juvenile Arrests	Total Arrests Per 100,000	Total Part I Arrests *	Total Part II Arrests **	Total Status Arrests***
Adams	3,490	122	3,496	19	69	34
Ashland	3,713	514	13,843	121	294	99
Barron	9,781	515	5,265	124	269	122
Bayfield	2,931	48	1,638	11	31	6
Brown	60,274	5,456	9,052	1,006	3,251	1,199
Buffalo	2,943	21	714	3	16	2
Burnett	3,129	22	703	2	16	4
Calumet	8,496	291	3,425	41	159	91
Chippewa	13,147	705	5,362	139	420	146
Clark	9,541	270	2,830	45	181	44
Columbia	12,458	1,044	8,380	111	762	171
Crawford	3,782	111	2,935	18	64	29
Dane	105,935	7,340	6,929	1,367	4,729	1,244
Dodge	17,347	1,404	8,094	173	817	414
Door	5,082	292	5,746	44	182	66
Douglas	9,479	624	6,583	138	344	142
Dunn	8,794	332	3,775	48	195	89
Eau Claire	21,661	2,286	10,554	527	1,241	518
Florence	832	12	1,442	1	11	0
Fond du Lac	21,545	1,474	6,841	296	947	231
Forest	2,130	158	7,418	14	124	20
Grant	10,068	338	3,357	47	218	73
Green	8,367	241	2,880	45	115	81
Green Lake	4,006	252	6,291	37	141	74
Iowa	5,660	203	3,587	28	118	57
Iron	973	50	5,139	2	22	26
Jackson	4,297	145	3,374	25	112	8
Jefferson	19,543	1,536	7,860	256	872	408
Juneau	5,658	253	4,472	44	186	23
Kenosha	42,288	3,701	8,752	550	1,862	1,289
Kewaunee	4,421	113	2,556	5	84	24
La Crosse	24,261	3,463	14,274	494	2,346	623
Lafayette	3,629	151	4,161	24	76	51
Langlade	4,173	228	5,464	44	149	35
Lincoln	6,462	768	11,885	96	475	197
Manitowoc	17,509	2,077	11,862	222	1,442	413
Marathon	30,585	1,912	6,251	384	1,193	335
Marinette	8,442	523	6,195	67	253	203
Marquette	3,021	20	662	6	14	0
Menominee	1,580	141	8,924	15	113	13

**APPENDIX III (continued)**

**Juvenile Arrests by Wisconsin County, 2008**

County	Juvenile Population	Total Juvenile Arrests	Total Arrests Per 100,000	Total Part I Arrests *	Total Part II Arrests **	Total Status Arrests***
Milwaukee	250,194	21,487	8,588	3,918	13,408	4,161
Monroe	11,110	1,035	9,316	127	736	172
Oconto	7,994	146	1,826	12	103	31
Oneida	6,694	554	8,276	160	275	119
Outagamie	45,769	3,880	8,477	801	2,209	870
Ozaukee	19,084	843	4,417	120	534	189
Pepin	1,657	48	2,897	4	30	14
Pierce	9,264	374	4,037	87	190	97
Polk	10,004	177	1,769	32	128	17
Portage	14,361	612	4,262	88	344	180
Price	2,719	191	7,025	34	122	35
Racine	49,543	4,438	8,958	521	3,138	779
Richland	3,910	119	3,043	17	78	24
Rock	39,351	5,264	13,377	758	3,215	1,291
Rusk	3,137	170	5,419	39	111	20
St. Croix	18,387	798	4,340	132	438	228
Sauk	15,154	1,570	10,360	312	715	543
Sawyer	4,013	320	7,974	29	275	16
Shawano	8,792	841	9,566	111	484	246
Sheboygan	25,994	2,545	9,791	431	1,714	400
Taylor	4,339	124	2,858	11	84	29
Trempealeau	6,439	175	2,718	13	129	33
Vernon	7,287	160	2,196	11	119	30
Vilas	3,849	188	4,884	44	63	81
Walworth	23,263	2,033	8,739	318	1,209	506
Washburn	3,382	205	6,062	48	132	25
Washington	30,410	3,110	10,227	522	2,107	481
Waukesha	86,970	4,145	4,766	770	2,367	1,008
Waupaca	11,824	942	7,967	118	582	242
Waushara	4,917	145	2,949	16	102	27
Winnebago	35,211	3,095	8,790	549	2,099	447
Wood	16,351	1,198	7,327	213	731	254
DNR	0	642	0	0	641	1
State Patrol	0	14	0	0	14	0
<b>Total State</b>	<b>1,312,805</b>	<b>100,744</b>	<b>7,674</b>	<b>17,005</b>	<b>62,539</b>	<b>21,200</b>

Because one arrest may be for more than one offense, the total number of arrests may be less than the number of arrests by offense.

\*Part I Offenses: Murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, theft, motor vehicle theft and arson.

\*\*Part II offenses include simple assault, driving while intoxicated, disorderly conduct, weapons violations, liquor and drug-related violations, vandalism, fraud, family offenses, and status offenses.

\*\*\*Status offenses are offenses only when they are committed by a juvenile, such as curfew violations, runaways and certain liquor law violations. Status offenses are a subset of Part II offenses.

Source: Office of Justice Assistance, Arrests in Wisconsin -- 2008.

## APPENDIX IV

### Dispositional Options Available to the Juvenile Court For Delinquency Adjudications (not all options available for all offenses)

- Counseling for the juvenile or the parent, guardian or legal custodian.
- Supervision of the juvenile provided by an agency (typically a county social services department), the Department of Corrections or, with DOC approval, a suitable adult, under conditions prescribed by the court.
- For a misdemeanor offense, participation in a volunteers in probation program under conditions determined by the court.
- For a misdemeanor offense, participation in a teen court program if the juvenile admits or pleads no contest to the allegations and the juvenile has not successfully completed participation in a teen court program during the previous two years.
- Participation in a county intensive supervision program.
- If it is shown that the rehabilitation, treatment and care of the juvenile cannot be accomplished by means of voluntary consent of the parent or guardian, transfer of legal custody of the juvenile to a relative, a county department or a licensed child welfare agency.
- Placement in one of the following: (a) the home of a parent or other relative of the juvenile; (b) an unlicensed home if placement is for less than 30 days; (c) a foster home or treatment foster home or a group home; or (d) a residential care center.
- Placement in an independent living situation effective on or after the juvenile's 17th birthday, under a supervision plan approved by the court.
- Placement in a juvenile detention facility, the juvenile portion of a county jail or in a place of nonsecure custody for a total of not more than 30 days and allow the juvenile to attend school, work or approved activities, if the county board has approved the use of those placements as a disposition.
- Placement in a Type 2 residential care center for children and youth under the supervision of the county department and subject to automatic placement in a more restrictive setting if the juvenile violates the conditions of the original placement.
- Placement in the Serious Juvenile Offender program.
- Placement in a juvenile correctional facility or a secured care center for children and youth under the supervision of DOC or in a secured group home under the supervision of a county. A secured group home is subject to the same limit of five to eight juveniles as a regular group home, but the facility is treated in the same manner and subject to the same requirements as juvenile correctional facilities and secured care center for children and youths, except that educational provisions applicable to secured care center for children and youths do not apply to secured group homes.
- Aftercare supervision for juveniles who have been released from a juvenile correctional facility or a secured care center for children and youth (must be ordered with all correctional placement orders).
- Electronic monitoring of a juvenile placed in the community under the following dispositions: (a) supervision; (b) intensive supervision; (c) a nonsecure placement; (d) the Serious Juvenile Offender Program; or (e) aftercare supervision.
- Restitution to repair the damage to property or for the damage or injury to a person that results

from a delinquent act.

- Participation in a supervised work program.
- Participation in a community service work program.
- Participation in a victim-offender mediation program if the victim of the juvenile's delinquent act agrees.
- Order for the juvenile's parent to provide the special treatment or care that the court determines is needed.
- Order for an integrated service plan to be developed and implemented, if the court determines one is needed.
- Alcohol or drug treatment, education or drug testing.
- Attendance at a nonresidential educational program provided by the school district in which the juvenile resides or by a subcontractor of the school district.
- Participation in a wilderness challenge program or other experiential education program.
- Order the juvenile to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center.
- Participation in an educational program that is designed to deter future delinquent behavior.
- Participation in vocational assessment, counseling and training.
- Participation in a day treatment program, if specialized educational needs are identified.
- Forfeiture (generally in the amount of the

adult fine for the equivalent offense or \$100 for a status offense), based upon a determination that this disposition is in the best interest of the juvenile and his or her rehabilitation and that the juvenile alone is financially able to pay the forfeiture.

- Delinquency victim and witness surcharge payment of \$20.
- Order to restrict or suspend the operating privilege of a juvenile who is adjudicated delinquent under a violation of any law in which a motor vehicle is involved or for a controlled substances violation.
- Suspend the juvenile's vehicle operating privilege for certain bomb scares and firearm violations
- Restrictions on the juvenile's use of computers if the juvenile committed a computer crime.
- If the juvenile is adjudicated delinquent for sexual assault (and at the court's discretion for certain other offenses and where the juvenile is found not responsible for an action by reason of mental disease or defect), require the juvenile to provide a biological specimen to the state crime laboratories for DNA analysis.
- If the juvenile is adjudicated delinquent for sexual assault or certain crimes against children (and at the court's discretion for certain other offenses), require the juvenile to comply with the reporting requirements of the sex offender registration program, unless the court determines, under certain circumstances and after a hearing on a motion made by the juvenile, that the juvenile is not required to comply. If ordered to comply, the court may require the juvenile to continue to comply with the reporting requirements until his or her death.
- Stay of dispositional order contingent on the juvenile's satisfactory compliance with any conditions specified in the order and explained to the juvenile by the court.

## APPENDIX V

### Average Daily Populations of Secured Juvenile Correctional Facilities 2000 - 2010

Calendar Year	Average Daily Population	Annual Change In Population	
		Number	Percent
2000	948	--	---
2001	923	-25	-2.6%
2002	836	-87	-9.4
2003	737	-99	-11.8
2004	668	-69	-9.4
2005	639	-29	-4.3
2006	572	-67	-10.5
2007	591	19	3.3
2008	591	0	0.0
2009	510	-81	-13.7
2010 (estimated)	430	-80	-15.6



## APPENDIX VI

### Youth Aids Formula – Initial Calendar Year 2010 Allocations (GPR Funds Except as Indicated)

Base Allocation	\$78,275,500 (including \$2,449,200 PR)	<ol style="list-style-type: none"> <li>1. Original allocation, based on three factors with override: <ul style="list-style-type: none"> <li>• County juvenile population (0-17/1980 census)</li> <li>• Average # arrests/county for Part I arrests (1975-78)</li> <li>• Average # county juvenile correctional placements (1975-78)</li> <li>• Overrides: counties would receive no less than 93% nor more than 115% of amount if correctional placements were only factor; also, counties would receive no less than 65% of amount provided by using the three-factor formula.</li> </ul> </li> <li>2. One-time adjustments to base allocation</li> <li>3. Adjustment to correctional rates in prior years</li> <li>4. Inflation increase for community programs in prior years</li> </ol> <p>The county allocations of this base amount are not subject to change under current law.</p>
AODA Base Allocation	1,333,400	<ul style="list-style-type: none"> <li>• Earmarked for AODA treatment</li> <li>• County youth aids balance available for community expenditures, CY 1999 thru 2001 ÷ statewide community programs balance = County %</li> <li>• County % x \$1,333,400 = County allocation</li> <li>• While considered a base allocation, the amount distributed to each county varies annually and is not incorporated as a fixed amount into a county's overall base allocation</li> </ul>
Budget Increase (1999 Wisconsin Act 9)	4,000,000	<ul style="list-style-type: none"> <li>• Under 1999 Wisconsin Act 9, \$4,000,000 was appropriated in 2000-01 as ongoing funding and will continue unless modified in subsequent legislation. The amount is allocated on the basis of the following factors, each factor weighted equally: (1) each county's proportion of the total statewide juvenile population for the most recent year for which that information is available; (2) each county's proportion of the total Part I juvenile arrests reported statewide under the uniform crime reporting system of the Office of Justice Assistance during the most recent three-year period for which that information is available; and (3) each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility, a secured care center for children and youth or a secured group home during the most recent three-year period for which that information is available.</li> </ul>
Budget Increase (2001 Wisconsin Act 16)	2,106,500	<ul style="list-style-type: none"> <li>• Under 2001 Wisconsin Act 16, \$2,106,500 was appropriated in 2002-03 as ongoing funding and will continue unless modified in subsequent legislation. The amount is allocated on the basis of the three factors described above, but with an override provision that no county receives less than 93% nor more than 115% of the amount it would have received if juvenile correctional placements (the third factor) were the sole factor used to determine county allocations.</li> </ul>
Budget Increase (2007 Act 20)	12,500,000	<ul style="list-style-type: none"> <li>• Under 2007 Wisconsin Act 20, \$12,500,000 was appropriated in 2008-09 as ongoing funding and allocated based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period for which information is available.</li> </ul>
Arrest Supplement For Small Counties	200,000	<ul style="list-style-type: none"> <li>• Statutory provision governing the payment of supplemental funds repealed under 1995 Wisconsin Act 27, but funding left in youth aids appropriation</li> <li>• Only counties with population of less than 50,000 eligible for supplemental funds</li> <li>• Funds prorated on basis of each county's share of Part I juvenile arrests for all counties under 50,000 population for the most recent two years for which data is available</li> </ul>
Initial Allocations	\$98,415,400	<ul style="list-style-type: none"> <li>• Initial allocations do not include other funds allocated late in, or after the end of, the calendar year. See below.</li> </ul>
<p><b>Other Funds:</b></p> <ol style="list-style-type: none"> <li>1. <u>Corrective Sanctions</u> - \$2,124,800 annually: 136 slots available; a county arranges with the state to receive services and is allocated funding based on the number of approved slots actually used (at an estimated \$74 per day of service). Funding allocated following close of calendar year.</li> <li>2. <u>Emergency Funds</u> - \$250,000 annually: Only a county with population under 45,000 is eligible. Eligible counties must demonstrate unplanned but appropriate juvenile correctional facility or CCI placements. Funding allocated late in calendar year.</li> <li>3. <u>County Carryover</u> - If unexpended youth aids at year end, county may carry over balance up to 5% of youth aids allocation or its unexpended balance, whichever is lower.</li> <li>4. <u>State Carryover</u> - Up to \$500,000 of youth aids or 10% of the total dollars unexpended by counties after county carryover is allocated, whichever is greater. DOC may allocate these funds to counties with persistently high rates of juvenile arrests for serious offenses, or for community-based juvenile delinquency-related services. The allocation of these monies is separate from the youth aids allocation and does not affect a county's base allocation.</li> </ol> <p>Note: Initial allocations (\$98,415,400), corrective sanctions funds (\$2,124,800) and emergency funds (\$250,000) total \$100,790,200 in currently projected allocations in 2011. Amounts shown are funded with GPR, unless otherwise indicated.</p>		

## APPENDIX VII

### 2010 Youth Aids Allocations by County

	Initial Base Allocation	AODA Base Allocation	1999 Act 9 Increase	2001 Act 16 Increase	Arrest Supplement	2007 Act 20 Supplement	2010 Allocation
Adams	\$201,146	\$2,975	\$10,912	\$7,793	\$1,009	\$48,518	\$272,353
Ashland	200,707	5,283	9,966	876	5,865	4,411	227,108
Barron	437,723	9,986	22,024	5,257	10,721	26,464	512,175
Bayfield	145,564	4,190	5,024	0	1,494	0	156,272
Brown	1,950,413	39,586	173,228	56,071	0	282,287	2,501,585
Buffalo	54,365	1,636	4,415	0	1,494	0	61,910
Burnett	199,829	6,058	4,852	876	486	4,411	216,512
Calumet	275,988	3,684	15,573	7,884	4,967	39,697	347,793
Chippewa	552,743	10,959	37,260	19,622	0	114,679	735,263
Clark	464,470	10,699	13,567	4,380	3,474	22,054	518,644
Columbia	336,353	8,106	29,449	6,133	0	30,875	410,916
Crawford	138,466	3,399	5,810	1,753	971	8,821	159,220
Dane	5,219,794	77,492	335,250	184,918	0	1,151,200	6,968,654
Dodge	634,309	11,125	42,757	16,646	0	83,804	788,641
Door	194,739	5,664	11,177	1,753	3,885	8,821	226,039
Douglas	1,040,231	28,631	19,320	2,628	9,563	13,232	1,113,605
Dunn	214,508	6,290	15,165	876	5,865	4,411	247,115
Eau Claire	1,019,018	16,710	71,685	27,160	0	136,733	1,271,306
Florence	53,987	1,803	1,404	0	224	0	57,418
Fond du Lac	888,426	10,713	63,154	33,259	0	194,072	1,189,624
Forest	65,866	1,320	5,826	2,628	2,764	13,232	91,636
Grant	253,533	7,736	15,905	0	0	0	277,174
Green	222,371	6,863	12,186	0	4,072	0	245,492
Green lake	123,136	3,772	7,969	876	4,220	4,411	144,384
Iowa	158,427	4,880	6,822	0	1,644	0	171,773
Iron	43,619	1,423	2,322	0	897	0	48,261
Jackson	175,878	5,531	8,242	0	3,922	0	193,573
Jefferson	600,133	17,409	43,757	1,753	0	8,821	671,873
Juneau	233,529	5,674	13,574	7,009	4,632	35,286	299,704
Kenosha	2,930,882	39,738	148,796	106,275	0	661,609	3,887,300
Kewaunee	112,075	3,348	6,140	876	859	4,411	127,709
Lacrosse	1,212,879	25,591	79,411	24,531	0	123,500	1,465,912
Lafayette	70,833	1,701	6,236	1,753	1,905	8,821	91,249
Langlade	364,627	9,858	10,160	1,753	5,827	8,821	401,046
Lincoln	354,735	8,582	19,818	5,257	14,083	26,464	428,939
Manitowoc	583,430	16,557	47,796	5,257	0	26,464	679,504
Marathon	1,410,193	29,039	79,160	29,787	0	149,965	1,698,144
Marinette	495,073	11,658	23,440	11,390	8,368	57,339	607,268
Marquette	89,507	2,853	4,579	876	560	4,411	102,786
Menominee	486,584	7,776	12,435	13,462	3,287	83,804	607,348
Milwaukee	28,940,959	310,593	\$1,180,474	985,515	0	6,135,321	\$37,552,862
Monroe	666,626	17,573	29,359	7,009	22,941	35,286	778,794
Oconto	320,222	6,546	16,934	8,761	3,960	44,107	400,530
Oneida	500,087	12,229	24,458	12,881	10,459	66,161	626,275
Outagamie	1,631,913	39,506	133,299	28,035	0	141,143	1,973,896

**APPENDIX VII (continued)**

**2010 Youth Aids Allocations by County**

	Initial Base Allocation	AODA Base Allocation	1999 Act 9 Increase	2001 Act 16 Increase	Arrest Supplement	2007 Act 20 Supplement	2010 Allocation
Ozaukee	\$640,729	\$13,730	\$35,303	\$14,017	\$0	\$70,572	\$774,351
Pepin	59,422	1,703	2,405	0	784	0	64,314
Pierce	279,383	8,115	16,870	876	6,799	4,411	316,454
Polk	402,155	8,460	20,818	10,513	5,192	52,929	500,067
Portage	488,891	5,616	44,779	20,150	0	101,447	660,883
Price	132,618	4,162	6,308	0	3,250	0	146,338
Racine	3,902,132	80,656	146,137	87,854	0	546,930	4,763,709
Richland	86,270	1,688	6,731	1,753	2,279	8,821	107,542
Rock	3,106,628	62,135	140,422	73,950	0	458,716	3,841,851
Rusk	215,479	5,292	8,955	3,504	3,436	17,643	254,309
Saint Croix	565,718	14,903	27,616	2,628	0	13,232	624,097
Sauk	464,912	5,708	44,180	23,266	0	136,733	674,799
Sawyer	175,451	3,067	10,987	5,786	5,304	30,875	231,470
Shawano	505,371	15,279	21,508	2,628	11,244	13,232	569,262
Sheboygan	1,097,098	15,865	87,658	46,163	0	238,179	1,484,963
Taylor	192,480	4,831	8,536	3,504	2,652	17,643	229,646
Trempealeau	118,604	1,283	13,254	6,980	4,034	35,286	179,441
Vernon	195,215	5,651	8,023	0	1,382	0	210,271
Vilas	263,003	3,650	11,644	7,085	1,942	44,107	331,431
Walworth	836,757	12,010	71,454	32,416	0	163,197	1,115,834
Washburn	154,703	4,339	8,140	1,753	4,146	8,821	181,902
Washington	1,196,968	27,575	72,730	15,770	0	79,393	1,392,436
Waukesha	3,459,707	89,776	152,533	30,664	0	154,375	3,887,055
Waupaca	505,580	13,011	25,381	4,380	0	22,054	570,406
Waushara	254,070	5,436	11,308	5,955	3,138	30,875	310,782
Winnebago	1,480,631	23,170	128,806	67,832	0	419,019	2,119,458
Wood	<u>1,225,629</u>	<u>33,544</u>	<u>36,424</u>	<u>3,504</u>	<u>0</u>	<u>17,643</u>	<u>1,316,744</u>
County total	\$78,275,500	\$1,333,400	\$4,000,000	\$2,106,500	\$200,000	\$12,500,000	\$98,415,400

Corrective Sanctions funding allocated following the close of the calendar year \$2,124,800

Emergency funding allocated late in calendar year \$250,000

Total Projected Youth Aids in 2010 \$100,790,200