



WISCONSIN LEGISLATIVE COUNCIL

HIGH-RISK JUVENILE OFFENDERS

Room 411 South, State Capitol
Madison, Wisconsin

July 10, 2008
10:00 a.m. - 2:30 p.m.

[The following is a summary of the July 10, 2008 meeting of the Special Committee on High-Risk Juvenile Offenders. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Carpenter called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Tim Carpenter, Chair; Rep. Tamara Grigsby; and Public Members Walter Dickey, Barbara Franks, Craig Hasting, Wendy Henderson, Devon Lee, Michael Malmstadt, Mark Mertens, Mike Moore, and Brad Schimel.

COMMITTEE MEMBERS EXCUSED: Reps. Rich Zipperer and Roger Roth.

COUNCIL STAFF PRESENT: Anne Sappenfield, Senior Staff Attorney; Melissa Schmidt, Staff Attorney; and Kelly Mautz, Support Staff.

APPEARANCES: Sen. Fred A. Risser, Co-Chair, Joint Legislative Council; Terry C. Anderson, Director, Legislative Council Staff; Silvia Jackson, Assistant Administrator, and Shelley Hagan, Director of Office of Juvenile Offender Review, Division of Juvenile Corrections, Department of Corrections (DOC); Tony Streveler, Executive Policy Initiatives Advisor, DOC; Pat Kenney, Deputy District Attorney, Milwaukee District Attorney's Office; John Lubarsky, Assistant State Public Defender, Madison Trial Office; and Judge Richard Werner, Rock County Circuit Court.

Opening Remarks

Senator Risser, Co-Chair, Joint Legislative Council, welcomed the committee and gave a brief summary of the Joint Legislative Council. Terry C. Anderson introduced the Legislative Council staff members assigned to work with the committee. He discussed rules for voting and described the process of reimbursement of expenses. He noted that the committee's meetings will be recorded and available on the Internet.

Introduction of Committee Members

Chair Carpenter introduced himself and welcomed the committee. He said that the committee will be looking at how the state can improve outcomes for juvenile offenders with options that are cost effective.

Description of Materials Distributed

Anne Sappenfield, Legislative Council Senior Staff Attorney, and Melissa Schmidt, Staff Attorney, described Staff Brief 2008-01, and Memo Nos. 1 and 2. Ms. Sappenfield stated that the brief highlighted statutes relating to juvenile correctional placements, adult court jurisdiction over juveniles, and funding of delinquency-related services. She said that the staff brief does not define the term "high-risk juvenile offender." Part I and II provide an overview of juvenile delinquency proceedings and adult court jurisdictions over juveniles. Ms. Sappenfield said that Memo No. 1 amends page 7 of the staff brief with updated commitment numbers from DOC. Memo No. 2 lists by county the number of juvenile waivers into adult courts. Ms. Schmidt stated that Part III of the brief explains how Youth Aids funding works as required by s. 301.26 (7) and (8), Stats.

Ms. Sappenfield noted that DOC's report "Cost-Effectiveness of Juvenile Correctional Institutions: Analysis and Options," also referred to as the "DJC rate study," was also distributed as part of DOC's presentation.

Presentations by Invited Speakers

[Note: PowerPoint presentations and other documents referred to by the speakers are posted on the committee's Internet site.]

Silvia Jackson, Assistant Administrator, and Shelley Hagan, Director of Office of Juvenile Offender Review, Division of Juvenile Corrections, DOC.

Ms. Jackson provided an overview of the Division of Juvenile Corrections (DJC). She highlighted operation costs of the correctional facilities and listed the types of services provided by staff. Ms. Jackson stated that the DJC rate study handout provides an in-depth overview of these services. The correctional institutions provide mandatory education individually tailored to each juvenile's needs. The major types of treatment in the institutions are alcohol and drug abuse, sex offender, aggression replacement, mental health, and cognitive intervention. There are also restorative justice programs.

Ms. Jackson discussed the number of juvenile commitments by gender, racial affiliation, age, and offense. She noted that juveniles from Milwaukee County account for almost half of the juvenile commitments in Wisconsin. Ms. Jackson also discussed recidivism rates as a way to judge the impact of the services provided over a two-year period following release from a correctional institution. Ms. Jackson said that this differs from the recidivism tracking for adult corrections, which tracks offenders for three years.

Ms. Hagen described the Serious Juvenile Offender Program (SJO). This adjudication option gives DJC more discretion to monitor juveniles and help them connect with the necessary resources as they transition into adulthood than other correctional options. Most of the SJO dispositions are five-years in duration. Ms. Hagen noted, however, that a maximum confinement of three years for Class B felony offenses is not enough time to help the juveniles make this transition. In response to questions from Representative Grigsby about how juveniles are prepared to reenter communities, Ms. Hagen explained that DJC received a \$2 million federal grant award for implementing a 90-day targeted reentry initiative.

In response to questions relating to the determination of recidivism rates, Ms. Hagen and Ms. Jackson explained that there are different definitions of “recidivism” depending upon how it is determined (i.e., by arrest, conviction, or commitment to an institution). The interstate comparisons of recidivism rates are difficult to interpret because states use different definitions. Also, for female offenders, there are too few girls receiving juvenile delinquency-related correctional services to conclude that their lower recidivism rate is statistically significant.

Tony Streveler, Executive Policy Initiatives Advisor, DOC.

Mr. Streveler provided an overview of juveniles who were under 17-years of age when they committed an offense, were convicted in adult court, and then committed to DOC upon sentencing. He explained that 46% of juveniles in this group who were incarcerated were from Milwaukee County and that over 60% of the offenders committed crimes against persons (i.e., homicide, sexual assault, and robbery). Between 2003 and 2007, 60% of those waived into adult court were not sentenced to prison.

Mr. Streveler explained that the DOC provides a continuum of services to decrease the likelihood of convicted offenders reoffending upon release. He noted that treatment is provided close to the time of the scheduled release date, but that the offender must actively participate in order for treatment to be effective. Mr. Streveler then discussed the completion rates for various treatments and services. Some inmates fail to complete treatment or service due to refusal to participate, but there is also a group that fails due to program unavailability or waiting lists.

Mr. Streveler said that the DOC measures recidivism using a three-year time period because that is the period during which the general population is most at-risk. Recidivism is defined as conviction for a crime resulting in a new criminal court disposition within three years of release from prison. Mr. Streveler said that rearrests or any reincarceration could also be used as an event defining recidivism, but those events are not taken into account currently by DOC.

Mr. Streveler concluded his presentation by offering a method for defining “high-risk” youth. He said that he believes that defining high-risk youth by criminal conviction alone limits the assessment of the risk the youth actually poses to the community. He suggested that the committee also look at the

youth's personal and environmental characteristics in combination with his or her conviction offense and the elements of this offense.

Patrick Kenney, Deputy District Attorney, Milwaukee District Attorney's Office, John Lubarsky, Assistant State Public Defender, Madison Trial Office, and the Honorable Richard T. Werner, Juvenile Court Judge, Rock County Circuit Court.

Mr. Kenney explained the various approaches Milwaukee County may take to handle high-risk juvenile offenders. He explained that in addition to the ability to waive juveniles into adult court, Milwaukee County has three additional county-funded programs that provide intensive community supervision. These programs are the: (1) Serious Chronic Offender Program; (2) Firearm Program; and (3) FOCUS.

Mr. Kenney discussed the secondary consequences of an adult felony conviction, including reduced access to employment and housing. Mr. Kenney discussed three ways he believes would reduce the number of waivers into adult court if the committee decides to pursue options to decrease the number of waivers to adult court. He proposed increasing the number of offenses that make a juvenile eligible for the SJO Program disposition; allowing juveniles with multiple adjudications to be eligible for the SJO Program; and allowing young offenders to have convictions either expunged or reduced through a youthful offender program. Mr. Kenney said that he thought that the juvenile justice system could be more creative to help kids with more effective consequences.

Mr. Lubarsky said that his role as a defense attorney for juvenile defendants is to be an advocate for his clients. He said that he views his role in a waiver hearing as helping the court see the whole picture for each juvenile and each juvenile's child-like behaviors, as well as his or her violent behaviors.

Mr. Lubarsky said that he has filed waiver petitions on behalf of his clients. Those clients requested waiver into adult court because they thought that they would receive probation and were not as concerned about having an adult conviction on their records. He said that children do not always look at the big picture and that his role is to do what his clients want from him. Mr. Lubarsky noted that Wisconsin did have a youthful offender program, but it was eliminated. He also thought that Mr. Kenney's suggestions were not unreasonable.

Judge Werner began by noting from Memo No. 2 that Rock County had the highest frequency of juvenile waivers in 2007. He said that he is the sole juvenile judge in Rock County and explained that this number included 11 juveniles with multiple filings. In response to questioning, he said that this number reflects cases in which a juvenile has received so many services that do not appear to have an impact and the county concludes it cannot do anything else. He also said that the financial impact on the county placing a juvenile in the adult system is likely a consideration in a small number of waiver requests.

Judge Werner described what he considers when analyzing each of the statutory criteria for waiver. For example, in looking at the personality of the juvenile, he considers the juvenile's amenability to supervisions, how prior supervision has gone, school attendance, compliance with rules at home, and how long the juvenile has been in the juvenile system.

Judge Werner reported that in his experience, most juveniles stipulate to a waiver because they do not want the daily monitoring provided by DJC. He said that he liked the youthful offender program

proposal mentioned by Mr. Kenney and Mr. Lubarsky because juveniles do not look at the big picture when making decisions that have lifetime consequences.

In response to questions, he said that he has never turned down a waiver stipulation because he knows most of the juveniles by that point. In response to questioning regarding contested waivers, Mr. Kenney said that about 1/3 of the waivers requested in Milwaukee are turned down.

Mr. Malmstadt shared that he was a children's court judge in Milwaukee County when the age for waiver process changed from 17 to 16 and served on the commission that drafted the Juvenile Justice Code legislation. He said that commission members expected that by lowering the age limit, there would still be the same number of waivers because the number of 16-year olds being waived in 1996 would be the same as the number of 17-year olds being waived in 1995. However, in reality, the result was that the number of waivers decreased when 17-year olds were automatically charged in adult court. Mr. Malmstadt also noted that this legislation included a provision for expungement but that this provision was removed as during the legislative process.

Discussion of Committee Assignment

Chair Carpenter asked committee members what issues they would like the committee to consider and what information they believe would be helpful to the committee.

- Mr. Moore requested more information about Wisconsin's former youthful offender program.
- Ms. Lee requested information about the brain development of adolescents.
- Representative Grigsby requested information on other states' juvenile corrections models that have been proven to work, such as Missouri's. She requested that the committee address a standard definition of recidivism and improve record-sharing. She also requested information on how other states treat of minors as adults.
- Mr. Mertens said that he would like the committee to review the age of jurisdiction over juveniles and address the funding for juvenile corrections, including Youth Aids.
- Ms. Franks stated that she was concerned that children at the age of 10 could be brought into the juvenile justice system. She wanted the committee to address this issue as well as why juveniles should be able to file a waiver petition.
- Mr. Malmstadt requested that the committee propose legislation to delete references to secured residential care centers for children and youth in the Juvenile Justice Code, as none currently exist. Mr. Malmstadt also asked the committee to review the criteria for waiver to adult court because for a judge, the criteria are in some cases unclear. For example, he said that as a judge, he was unsure whether a juvenile's mental illness or developmental disability argued for a longer period of supervision in the adult system or for more intensive treatment services from the juvenile system.

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

The next meeting of the Special Committee will be *Thursday, August 6, 2008*. The Committee will be touring the Ethan Allen School in the morning and meet at the Waukesha County Administration Center in the afternoon.

Adjournment

The meeting was adjourned at 2:30 p.m.

MS:ksm