

December 15, 2014

FROM: Ben Kempinen  
Clinical Professor  
University of Wisconsin Law School

TO: Legislative Council Study Committee on the Review of Criminal Penalties

I write to respectfully request that we include in any final report of our work a recommendation for further study of the five issues listed below. Details about all but the question of revision of procedures for forfeiture actions are summarized in my prior memoranda of August 5, 2014, and November 10, 2014, and need not be repeated here.

While our committee and its constituent subcommittees have thoughtfully and thoroughly responded to its initial charge, there are important related issues which have a substantial impact on our state criminal justice system which we have not addressed. There would be great value in doing so, hence my suggestions that we recommend further study of these important and recurring areas of criminal justice administration.

### **Issues for Future Study**

- Financial Consequences of Conviction – expand community service and judicial options for offenders unable to pay
- Expansion of Expungement and Conditional Plea Authority – give state trial judges additional power to permit expungement of criminal records in appropriate cases
- Diversion and a Victim's Right to Restitution – revisit the statutes regarding diversion programs and make clear that a victim's right to restitution should not be dependent on whether an offender has a criminal conviction
- Misdemeanor Options for First Offense Drug Possession Cases – revise the statutes to allow for first-time low risk drug offenders have a misdemeanor option for conviction
- Forfeiture Procedures – As the community converts several crimes to forfeitures it would be appropriate to revisit the procedures by which this type of case is prosecuted. At present there are varying and cumbersome procedures for different types of offenses. *See State v. Bausch*, 352 Wis. 2d 500, 842 N.W.2d 654, 2014 WI App 12 (2013)