

The Adjudication of Juveniles in the Adult Court System

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The Adjudication of Juveniles into the Adult Court System

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## **Abstract**

The Adjudication of Juveniles into the Adult Court System.

Shanna LaRae Lindquist

Under the Supervision of Dr. Michael Klemp-North

### **I. Statement of the Problem**

One of the most controversial issues in the criminal justice system currently is the question of whether or not juveniles should be adjudicated to the adult court system. When juveniles are adjudicated to the adult court system, there are many issues introduced to the criminal justice system, such as at what age should juveniles be adjudicated to adult court and for which crimes.

### **II. Purpose of the Study**

The purpose of this paper is to explore the challenging issues that adjudication of juveniles to adult court presents to the justice system. In addition, the paper will make recommendations for improvement.

I will recommend that legislative changes be made in order to assure juveniles be prosecuted in the juvenile court system. The Wisconsin Council on Children and Families, and other human service agencies, are trying to push legislative changes for the way that juvenile court waivers are handled in Wisconsin, and there are many reasons why there is a push for change. The main reason for change is due to research that has only happened within the past

decade finding that adolescents think differently than adults. Adolescents' decision-making skills and abilities are not fully developed until they have reached their twenties.

For this paper, the definition of a juvenile delinquent will be defined as a person below a legally specified age who has been adjudged by a court to have violated the law or committed a status offense (Conklin, 2007).

### **III. Significance or Implications of the Study**

The significance and implications of this study will educate the public as well as legislators that the laws of our justice system need to be modified to better suit the needs of juvenile offenders. This study will also bring more awareness to the controversial issue of adjudicating juveniles to adult court.

### **IV. Methods of Approach**

Information for this paper will be gathered using secondary sources. These sources will include statistics from the Bureau of Justice, State Statutes, Wisconsin Council on Children and Families, as well as other readings from the fields of law enforcement and social work.

### **V. Contribution to the Field**

This paper will be an educational tool that can be used by those who are involved in the juvenile adjudication system. It will be used to educate people about the current adjudication system in the State of Wisconsin and the proposed changes to the system.

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## **I. INTRODUCTION: CURRENT DATA AND TRENDS OF THE JUVENILE COURT, PROBLEMS WITH THE ADJUDICATION SYSTEM.**

There are many challenging issues facing our criminal justice system as a whole in the United States today. With the decreasing amount of violent crime by juveniles in our society, the issue of whether or not to adjudicate juveniles to adult court is more prevalent than ever (Puzzanchera, 2008). The purpose of this paper is to explore the challenging issues that adjudicating juveniles in adult court present to the criminal justice system. This paper will include current data and trends of juvenile crime within the United States. It will also examine the problems in the current justice system as it applies to waiving juveniles to adult court. An overview of the history of the juvenile court system will be given.

Important statistics and trends regarding the adjudication of juveniles nationally and within the State of Wisconsin will be discussed. This paper will compare the types of programs that are mandated in juvenile court to the programs offered in the adult court system. The new law changes that are being presented in Wisconsin will be explored as well as new brain research that suggests juvenile brains do not fully develop until they are older. Social Learning Theory and Social Control Theory will be used to explain why juveniles commit criminal activities and why, with the help of juvenile programs, they can be rehabilitated. In addition, this paper will make recommendations for improving the way juveniles are handled in the justice system. The justice system in the United States is in need of an overhaul in order to better serve our juvenile justice population as well as our society.

Pauzzanchera, Adams & Sickmund (2010) found that the juvenile courts in the United States handled 1,666,100 cases during 2007. In comparison, juvenile courts in 1960 handled 1,100 cases per year. In 2007, juvenile courts handled about 4,600 delinquency cases per day.

However, the delinquency rate is on a 7% decline since 1998. In 1998, the juvenile court handled 4,800 delinquency cases per day. Juvenile crime is at its lowest level since 1980. In 2008, the juvenile arrest rate for murder, forcible rape, robbery and aggravated assault each remained well below their highest levels that occurred in the 1990s (Puzzanchera 2008). According to Puzzanchera (2008), in 2008, United States law enforcement agencies made an estimated 2.11 million arrests of persons younger than 18, a 3% decrease from the previous year. Even though the arrests for violent crime among juveniles is decreasing, juveniles are still be adjudicated to adult court. The problems of adjudication started to arise when stricter crime legislation was passed in each state that made waiving juveniles into the adult court system easier due to an escalating crime rate. With these stricter laws in place, many juveniles are sent directly to adult court. Once in the adult court system, juveniles are always treated as an adult and are not able to use the rehabilitative programs that are mandatory in the juvenile court system. When a juvenile enters into the adult system, it deprives them of the use of rehabilitative programs. Juveniles who enter into the adult court system also have a higher recidivism rate than their peers who are kept in the juvenile court system (Hartney, 2006).

The juvenile court system in the United States has had an expansive history. The juvenile justice system in the United States has been remodeled numerous times in order to be able to better serve juveniles. Improvements have been made in order to give juveniles due process within the court system. Our current juvenile justice system is designed to rehabilitate the juvenile offender so they do not reoffend and give them the tools they need to become a productive member of society.

This literature review will explore the history of the juvenile court system in the United States. It will also discuss the different kind of waivers that are used in order to adjudicate a

juvenile into the adult court system. Important Supreme Court of the United States rulings, which guaranteed juveniles constitutional rights such as the right of due process, will also be discussed, as will legislative acts that have impacted juveniles within the justice system. Juvenile crime statistics within the United States will be reviewed. This literature review will examine current Wisconsin law as it applies to juveniles. The Supreme Court of the United States, in their rulings, left it up to each state to determine at what age and for which criminal acts juveniles would be waived into the adult court system. Also to be examined are current legislative acts being introduced in Wisconsin to change the justice system and make it more juvenile friendly. The many problems adjudicating juveniles into the adult court system will also be explored.

## **II. LITERATURE REVIEW:**

### **A. History of the Juvenile Court System**

In order to fully understand the root of the adjudication problem that looms over the criminal justice system today, we first must examine the history of the juvenile court system. Prior to the 1800s, juveniles in the United States who committed crimes were tried and sentenced as adults. This continued until the juvenile system was established in 1899 as an informal welfare agency. The first juvenile court was started in Cook County, Illinois. According to Drogin (2007), juvenile courts were based on the philosophy of “*parens patriae*.” This allowed state officials to act as guardians for the children and make decisions regarding the best interests of the children in court. Since then, the juvenile court system has undergone many changes in order to balance the special needs, and circumstances of juvenile delinquents with the demands of the ever changing crime rates of our society.

Currently, our juvenile justice system is focused on the needs of children. The juvenile court system mandates juvenile offenders’ participation in programs (Hartney, 2006). These programs follow the goals of rehabilitation that are key to the philosophy of the juvenile justice system. The programs may include: different types of therapy, drug treatment, group homes, mental institutions, education, anger management, job training and probation. Whereas if the juveniles are transferred to adult court system, they are not offered such a wide variety of services and, if services are offered, their attendance is not mandatory like it is in the juvenile system.

## **B. Waiving Process**

In order for juveniles to be tried in adult courts, a waiver process is completed, thereby moving the child into an adult court. The four different types of waivers used to transfer adolescents from juvenile court to adult court are: judicial, prosecutorial, mandatory and legislative. The most commonly used waiver type is a judicial waiver. This waiver is used when a juvenile court judge orders a juvenile to be adjudicated in adult court (Samaha, 2008). Another waiver that is used quite frequently is the legislative waiver, which is also known as the automatic waiver. With this waiver, juveniles are automatically waived to adult court for the crime they have been charged of committing by State Law. Many state legislatures in the United States have passed laws that automatically waive juveniles, who face charges for violent crimes like murder, directly to adult court.

## **C. Court Rulings and Legislative Acts**

Many states have also implemented certain criteria for making waiver decisions based upon the Supreme Court of the United States ruling in *Kent v. United States* (1964). The question was first posed to the Supreme Court of the United States whether or not juveniles could be transferred from a juvenile court to an adult court. Morris Kent Jr., a 16-year-old, was a habitual juvenile offender who had previously been placed on probation for his involvement in house robberies. His fingerprints were found at the crime scene of a rape and burglary, and he was taken into custody. While in custody, he admitted to other devious criminal crimes including other rapes and robberies. Kent's attorney filed a motion with the juvenile court asking for a hearing. No arraignment hearing was held, and the judge waived Kent's case directly to adult court. No reasoning was given, and Kent's attorney never had the chance to

defend his client's right to be charged in juvenile court rather than be waived to adult court (Steward-Lindsey, 2006).

The Supreme Court of the United States ruled in *Kent v. United States* that juveniles can be tried as adults depending on the factors of the criminal act that they committed and if they are granted an arraignment hearing. The Supreme Court of the United States determined that "determinative factors" would be used to decide whether to retain youthful offenders in juvenile court or transfer them to adult court. The court set an eight rule test in order to help the states determine whether a juvenile should be waived to adult court or kept in juvenile court.

The eight rule test of the Supreme Court of the United States took into consideration the seriousness of the alleged offense and whether it injured a person or property. It also took under consideration the protection of the community. The test asked the court to examine if the alleged offense was committed in an aggressive, premeditated or willful manner. It also examined if the crime committed was against property or persons, and it placed emphasis on the fact if the charge had enough evidence to make an indictment. The sophistication and the maturity of the juvenile who committed the crime were also taken into consideration. Additional determining factors for the court to consider in waiving a juvenile to adult court include the juvenile's home life, emotional state and any previous contacts they had with the law. The Supreme Court of the United States ruling in *Kent v. United States* is considered a landmark case regarding juvenile justice in the United States. This case set precedent and guidelines for states to follow with regards to holding youthful offenders in the juvenile court system or waiving them to adult court (Drogin, 2007). The Supreme Court of the United States ruling in *Kent v. United States* paved the way for juveniles in the United States to be waived to adult court. According to Drogin (2007), the Supreme Court of the United States in *Kent v. United States* ruled that, "judges must

take into account the demeanor, conduct and the emotional psychological attitude of each juvenile before waiving them to adult court” (Drogin, 2007, pp.1). With this ruling, the only guidelines the Supreme Court of the United States gave to the states to follow were those of the eight rule test. This ruling still left a gap in protecting a juvenile’s right to due process.

In the Supreme Court of the United States case of *Gault v. United States*, (1967) a 15-year-old boy was taken into police custody because he made lewd, harassing telephone calls. At his juvenile court hearing, the judge ordered him to be placed in a state industrial school for punishment. His attorney wrote a writ, also known as “habeas corpus,” to challenge the legitimacy of the Arizona Juvenile Code stating it did not allow due process rights to juveniles. The Supreme Court of the United States ruling in *Gault v. United States* made the juvenile court more formalized. The Supreme Court of the United States ruling stated that courts had to give advanced notice to juveniles and their attorneys of the specific charges they were facing, that juveniles had the right to a lawyer, the right to examine witnesses, and the right to protect themselves against self incrimination. Juvenile courts, with this ruling, were now similar to a scaled down version of criminal courts allowing each state to specify the conditions under which juvenile offenders can be prosecuted as well as punished as adults.

In 1968, the Juvenile Delinquency Prevention and Control Act was enacted. This legislative act was the first to allocate federal funds to the states for their juvenile justice systems. The states implemented delinquency plans, and once approved, were given federal monies in order to carry out the prevention of delinquency, rehabilitation programs, training, and research. The Juvenile Justice and Delinquency Prevention Act was enacted in 1974. This act created the Office of Juvenile Justice and Delinquency Prevention. This office was created in

order to deal with juvenile delinquency prevention while using the help of law enforcement. This act mandated that states participate in the act and prevented youths under the age of 18 from being held in adult jails and prisons, unless the state defined an “adult” as under 18 or if the juvenile was being tried for a felony.

When the United States Congress was passing laws, the Supreme Court of the United States also continued their crusade addressing juvenile court matters. The outcome was that juveniles were granted additional due process rights. In *re Winship* (1970) the Supreme Court of the United States ruled that states had to prove juvenile cases beyond a reasonable doubt, just like they do in adult cases. In the Supreme Court of the United States case of *Breed v. Jones* (1975) the court ruled that waiving juveniles to adult court after they have already been tried in juvenile court amounts to double jeopardy and is unconstitutional (Katel, 2008).

The Supreme Court of the United States case *Roper v. Simmons* (2005) addressed the issue of the death penalty for juveniles. At 17-years-old, Christopher Simmons planned and committed capital murder, and at the age of 18, he was sentenced to the death penalty. Simmons’ attorney filed a petition and argued that the Constitution prohibits the execution of a juvenile when his criminal act was committed under the age of 18. The Supreme Court of the United States found that executing minors is cruel and unusual punishment and is prohibited by the Eighth Amendment.

The Supreme Court of the United States is still making changes within the justice system as it relates to juveniles. The Supreme Court of the United States ruled in the case of *Graham v. Florida* (2005). Terrence Graham was 16-years-old when he was convicted of armed burglary and attempted armed robbery. He served a year sentence and then was released. A few months later, Graham was convicted by a Florida state court of robbery and then was sentenced to life in

prison without the possibility of parole. His attorney, on appeal, made the argument that a life sentence without parole for a juvenile violates the Eighth Amendment right, which prohibits cruel and unusual punishment. The District Court of Appeals of Florida disagreed. The United States Supreme Court's ruling found that according to society's standards, sentencing a juvenile to life without parole for a non-homicidal crime was rejected the world over and found to be unconstitutional and to have violated Graham's Eighth Amendment right.

Both the United States Congress and the Supreme Court of the United States addressed juvenile court matters heavily for the first time throughout the 1960s and continue to do so today. The Supreme Court of the United States assures juveniles the right of due process while in the court system, and the United States Congress enacted laws in order to fund programs and services for juveniles to prevent delinquency as well as to protect them.

#### **D. Juvenile Crime Statistics**

With the increase in criminal activity in the mid 1990s, the United States started to take a tougher stance on crime. Many states modified their juvenile court systems to make it easier to transfer juveniles to adult court, due to the public outcry towards the violent crimes and drug use in which juveniles were participating (Conklin, 2007). In New York and North Carolina, 16-year-olds are considered adults. Some states also passed legislation that allowed for juveniles age 10 and older to be tried as adults for violent crimes such as murder, rape and assault (Katel, 2008). With the decrease in juvenile crime rates, state legislations, such as the State of Wisconsin, are considering changing their current laws to once again consider the adult age of criminality to be 18. Currently, forty states permit youth charged as adults to be held in adult jail, and in some states, they end up serving their entire time among the general adult prison population.

As Arya (2011) states, the Campaign for Youth Justice reported that within the last five years, some states have begun to change their legislations in favor of rehabilitating juveniles. In 2008, Maine passed a law to keep young offenders out of adult prisons. It provides that children, who are under the age of 16 years of age, who receive adult prison sentences, begin their sentence in a juvenile facility and then be transferred into an adult facility when they turn 18. Arizona, Colorado, Connecticut, Delaware, Illinois, Indiana, Nevada, Utah, Virginia and Washington have changed their adjudication laws making it harder to waive juveniles to adult court. Arya (2011) also makes the point that, “Colorado, Georgia, Texas and Washington have also changed their mandatory minimum sentencing laws to take in account the developmental differences between juveniles and adults” (Arya, 2011, p.7).

According to Pauzanchera, Adams & Sickmund (2010), between the years of 1995 and 2007, the number of offenses in which juveniles were adjudicated increased from 61,300 to 91,500. 38 states require violent felonies to be waived to adult court. Juveniles that are age 17 are considered adults in ten states: Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas and Wisconsin. 26 states also allow blended sentencing for juveniles. Blending sentences split their time between juvenile and adult sentences.

According to Hartney (2006), 23 states do not have a set minimum age for transferring juveniles to adult court. Hartney (2006) also estimates that 200,000 youth are tried, sentenced, or incarcerated as adults every year in the United States. Every day in the United States, there are approximately 7,500 adolescents that are serving time in adult jails and more than 2,000 juveniles serving time in adult prisons (Hartney, 2006).

## **E. Adjudication of Juveniles in Wisconsin**

Transferring adolescents from juvenile court to adult court poses problems to criminal justice systems throughout the United States. In 1996, the State of Wisconsin changed the juvenile code to make it easier to waive a youth to adult court. The new juvenile code addressed kids ages 10 and over. The code stated that all juveniles over the age of 10 can be charged with felonies in adult court. The State of Wisconsin determined that all juveniles 17-years-old and older to be considered adults for the prosecution of crimes. This means any 17-year-old who is arrested, no matter what the charge, cannot be processed through the juvenile court even though, in every other aspect of their life, they are to not be considered an adult.

Henderson & Brien (2006), state that within the State of Wisconsin, in 2004, there were almost 5,000 admissions of 17-year-old defendants to adult county jails and 300 youth of 17 years of age or younger admitted to the adult prison system. Henderson & Brien (2006) did a study for the Wisconsin Council on Children and Families. They study found that 87% of the 1,000 17-year-old juvenile offenders who were prosecuted in adult court in the State of Wisconsin were convicted of only misdemeanors not violent crimes.

The Supreme Court of the United States has left it up to each individual state within the United States to pass legislation regarding the adjudication of juveniles into the adult court system. The Supreme Court of the United States has ruled that juveniles are granted due process when charged in adult court; however, what age they are adjudicated, for what criminal offenses and how they are adjudicated are questions left up to each state. Each state has variations of a juvenile code, which must follow the guidelines set forth by the Supreme Court of the United States and legislation. The State of Wisconsin has its own juvenile code.

## **F. Current Wisconsin Law**

*Wisconsin State Statute* § **938.183** is the law that waives juveniles into adult court. This law grants juveniles due process and makes it legal to give them adult consequences for their actions. In *Wisconsin State Statute* § **938.02 (1)**, “adult” is defined as a person who is 18 years of age or older except that for the purpose of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil or municipal ordinance, and adult means a person who has attained 17 years of age.

Under current Wisconsin State Law, adolescents of ages 10-16 that are charged with first degree intentional homicide, first degree reckless homicide, second degree intentional homicide and any juvenile that commits assault to a correctional officer or other inmate are waived to adult court automatically. *Wisconsin State Statute* § **938.183** grants the power to automatically waive juvenile offenders to original adult court jurisdiction. *Wisconsin State Statute* § **938.183 (1) (am)** states that the juvenile who is alleged to have attempted or committed a violation of *Wisconsin State Statute* § **940.01** (first degree intentional homicide) or to have committed a violation of *Wisconsin State Statute* § **940.02** (first degree reckless homicide) or *Wisconsin State Statute* § **940.05** (second degree intentional homicide) on or after the juvenile’s 10<sup>th</sup> birthday be tried as an adult for their crime. In 1996, the State of Wisconsin started to get tough on juvenile offenders and passed a law that required all 17-year-olds to be automatically charged as adults under the law even if the offenses were minor (*Wisconsin State Statute* § **938.12 (2)**).

The State of Wisconsin has enacted its own juvenile code while abiding by the rules and regulations set forth by the United States Supreme Court and legislation. The juvenile code in Wisconsin is comprised of its own unique rules in order to deal with the issue of juvenile

delinquency within the state. In Wisconsin, many human service agencies are advocating for changing the current adjunction system. Human service agencies and others want Wisconsin to change the current law, and make all children under 18 considered juveniles in the court of law.

### **G. Wisconsin Law Proposals**

Bill SB 149 was introduced to Wisconsin legislators by the Joint Legislative Council on April 6, 2009. This bill required judges to order psychological evaluations of juveniles claiming a mental illness, developmental disability or drug problem. However, on April 28, 2010, the bill failed to pass the Senate (Wisconsin State Senate, 2010). Another similar bill was brought forth to the Wisconsin legislature. On February 11, 2010, Representative Fred Kessler, from Milwaukee, proposed a bill named AB 732 that would prohibit the automatic waiver of 17-year-olds who commit non-violent crimes to adult court. Those that commit violent crimes such as murder, aggravated assault and sexual assault would still be automatically waived to adult court. This would allow them to stay in juvenile court and be able to access the many juvenile court programs. The bill failed to pass partially due to current budget constraints. However, the legislative waiver of juveniles into the adult court system continues to be a hot topic and will be readdressed in upcoming legislative sessions (Wisconsin Council on Children and Families, 2010).

Currently in the State of Wisconsin, there is a push for legislative change in the way our justice system deals with juveniles who are under the age of 18. This push is backed by brain research that suggests a juvenile's brain is not fully developed until later than previously thought. This push for change is largely being head by The Wisconsin Council on Children and Families and other advocates. There are many problems that occur when waiving juveniles in

the adult court system and it needs to be changed in order to better deal with juvenile delinquents. The juvenile court system mandates many different programs in order to help rehabilitate juvenile offenders; whereas, the adult court system does not offer any. Therefore, this poses a huge problem when a juvenile is adjudicated into adult court.

## **H. The Problems of Adjudicating Juveniles to Adult Court**

There are many problems with juvenile adjudication. The first issue is the fact that the Supreme Court has not issued many guidelines, thus leaving transferring juveniles to adult court up to each individual state. Each individual state has their own laws regarding the waiver of minors to adult court. These legislative rules should be implemented on a national level. This would make each state follow the guidelines issued by the federal government.

### **Brain Research on Juveniles**

Another very important reason why juveniles should not be adjudicated to adult court is due to new research on brain development that was not available in the mid 1990s when states, including Wisconsin, got tougher on crime and changed the juvenile system making it easier to waive youths to adult courts. The Wisconsin Council on Children and Families has been leading the forefront along with other human service agencies in the battle of pushing for legislative changes in the way that juvenile court waivers are handled in Wisconsin. There are many reasons why there is a push for change. One reason for change is due to brain research that has only happened within the past decade, finding that adolescents think differently than adults. Neuroscientists such as Jay Giedd M.D. make the argument that juveniles' brains do not develop until later than previously thought. Jay Giedd M.D. is from the National Institute of Mental

Health and has done research involving many brain scans on adolescent brains. He has also studied brain development and has determined that adolescents' decision making skills and abilities are not fully developed until they have reached their twenties. Dr. Giedd (2004) explains that during adolescence, the part of the brain that helps with organization, planning and strategizing is still being developed until the early 20's (Giedd, 2004).

According to researchers Barid & Yurgelun-Todd and their other colleagues, the amygdala part of the brain plays an important role in perceiving facial expressions as well as aiding in identifying an emotional meaning of facial expressions. Their study used 12 adolescent participants between the ages of 12 and 17. They had their participants examine photographs of different expressions while they were taking part in an MRI. The study found that the amygdala became especially active in the adolescents when doing facial recognition activities. They also found that adolescents misinterpreted fearful facial expressions (Baird, et al, 1999).

In an interview for the PBS television series Frontline called *Inside the Teenage Brain*, neuropsychologist Yurgelun-Todd spoke about other brain research that she has conducted. She said that her research suggests that an adolescent brain works differently than adults when they are processing emotional information. She said that in an adult brain there is a connection between the frontal lobe and the lower brain. In her research, she discovered that adolescents tend to work with just the frontal lobe. The connection between the frontal lobe and lower brain is still developing. Yurgelun-Todd explains that the process of decision making is complex and relies on an interconnected system. When a brain such as an adolescent brain is not completely formed, it is hard to make even the simplest decision. In one of her studies, Yurgelun-Todd asked adults to identify facial expressions from photographs while they were undergoing an

MRI. They correctly identified the emotion 100% percent of the time. When the juveniles were tested, they only identified the correct emotion 50% of the time. Yurgelun-Todd states that juveniles may appear to be grown up at first glance but they are not able to rationalize consequences and make decisions like adults are.

Brien & Henderson (2006) explains “New research suggests that scientists know that the amygdale part of the brain, which is linked to emotional responses, is active during adolescence puberty” (p.7). What this research explains is that the ability to control behaviors in emotionally charged situations does not develop until late adolescence; therefore, making it harder for juveniles to control their behaviors. Brien & Henderson (2006), state that the new brain research seems to make the suggestion that, “Scientists know that the amygdale part of the brain, which is linked to emotional responses, is active during adolescence puberty.” This also indicates that the ability to control behaviors in emotionally charged situations does not develop until late adolescences which is in the early 20’s.

### **Safety of Youth**

When youth are placed with adults in adult jails, the youth are at a much greater risk of physical and sexual assault by other inmates. The Bureau of Justice Statistics (2007), states that 21% of all victims of inmate sexual assault in jails that occurred in 2005 and 2006 were adolescents under the age of 18. This is an extremely high percentage considering that inmates under the age of 18 make up 1% percent of the population. Another safety issue when dealing with youth, who are waived to adult court, is that of suicide. According to Ayra (2007), juveniles that are incarcerated also have the highest suicide rates of all inmates. Youths are 36

times more likely to commit suicide in an adult jail than in a juvenile detention facility. They are also 19 times more likely to commit suicide in an adult jail than youth in the general population.

## **Recidivism**

If the juvenile stayed in juvenile court, they would be placed in a facility that was fitted for their needs instead of a prison or jail. They also would be among their own peer group away from the general prison population. Recidivism rates among juveniles that are adjudicated into adult courts are also much higher than those of their peers who are sentenced in juvenile court. Drogin (2007), along with many other such researchers, make arguments that the very latest research suggests that juveniles who experience the adult justice system, on average, commit more criminal acts once released than juveniles in the juvenile justice system.

A study done by Podkopacz & Feld (1996) in the State of Minnesota found that recidivism rates were 58% higher for juveniles who had been waived to the adult court system than the 42% of youths that remained in juvenile court (Podkopacz & Feld, 1996). Other similar studies duplicate the numbers. This is yet another good explanation to why we should keep juveniles in the juvenile court system and not transfer them to the adult system. Juveniles should attend rehabilitative programming allowed only in the juvenile system.

## **Mood Disorders and Mental Health**

Another issue with juveniles who commit criminal acts is that many of them have severe mental illnesses and mood disorders. According to Austin, Johnson & Gregoriou (2000) mental health services that are offered in adult prison are “grossly inadequate” to fit the needs of juveniles. The average wait in order to obtain psychiatric services for mental health was 2-5

weeks. Many of the youth who are detained in the justice system are mentally ill or suffer from some form of “emotional disturbances.” When a juvenile is incarcerated, their mental illnesses or emotional disturbances are often intensified (Austin, Johnson & Gregoriou, 2000).

Mood disorders include everything from bi-polar disorder and depression to Attention Deficit Hyperactivity Disorder (ADHD). Juveniles with mental illness need treatment for their illness. If the juvenile offender is waived to adult court and sentenced to the prison system, they may not receive the care they need, and often times they will continue to progress in a downward spiral. If the juvenile is sentenced in juvenile court, they are more likely to undergo a psychiatric evaluation. This evaluation will assist in determining their competency and in the development of an individual treatment plan. According to Ryan & Redding (2004), one in 12 adolescents has a mood disorder. In a recent study of 1,550 juveniles committed to the Virginia Department of Juvenile Justice, four out of 10 of the juveniles studied had some sort of mood disorder (Ryan & Redding, 2004).

Ryan and Redding (2004) argue that studies on mood disorders among juvenile offenders show that this population has high rates of mood disorders, which is the leading cause of suicide among juveniles and can greatly contribute or intensify bad behavior. There are many ways in which a mood disorder can contribute to a juvenile’s behavior. Mania as described by Ryan and Redding (2004) can lead to risk taking and instant gratification behaviors. Juveniles who have mood disorders, especially boys, are also more likely to violently act out and to display disruptive behaviors. Juveniles with mood disorders are less likely to contemplate their behaviors before acting out since they are often times depressed and do not care about future results of their actions. However, with an individual treatment plan such as psychotherapy,

group therapy, cognitive therapy, medications, and a stable environment, juveniles with mood disorders can be treated, learn correct coping skills, shed their bad behaviors and be rehabilitated (Ryan & Redding, 2004). This is why it is extremely important that juveniles be tried in the juvenile court, which offers programs for rehabilitation, instead of sentenced to prisons. Hartney (2006) mentions that youth that are convicted in the adult system receive little to no rehabilitation, which is mandated in the juvenile system. Therefore, when the juvenile is released from the adult system, they may be even more dangerous to society than they were before they were sentenced.

### **Programs for Juveniles in the Juvenile System in the State of Wisconsin**

Besides the issue of mental health treatment, juveniles who are adjudicated into the adult system and found guilty also have difficulty having their educational needs meet. This presents a problem for institutional administrators of how and where to allow the juveniles to finish their elementary or high school educations among the general prison population. Therefore, waived youths often lack the education they would have received if tried by a juvenile court and put in a secure detention center or other program. Brien & Henderson (2006), make the comparison of Southern Oaks Juvenile Girls School in Wisconsin and Taycheedah, a Correctional Institute for women in Wisconsin. Southern Oaks mandates education classes, counseling and therapy sessions throughout the day. Whereas, Taycheedah offers five hours of classes a day, and their inmates are not required to attend.

In the State of Wisconsin, there are many different programs specifically geared towards delinquent juveniles. According to the Department of Corrections of Wisconsin Juvenile Corrections website there are many different programs offered to juvenile delinquents in the state

of Wisconsin. Ethan Allen's, a boy's school, mission statement indicates that it provides individualized culturally sensitive programming based upon the uniqueness of each youth. The school maintains partnerships with families, counties and community agencies. Ethan Allen mandates school attendance and different therapies, while it also offers programs such as welding, construction and building maintenance program to the boys who are housed there. Another unique program that is offered there is called the EAS Victim Impact Program, Self and Community. This program teaches victim's rights and uses awareness to educate the boys on the negative effects of crime.

Another program that is only offered to juveniles in juvenile court system is that of Cadet Achievement Program, also known as CAP. CAP is a program for boys, based off a military model, that uses exercise and a strict program to teach youth the value of education, self discipline, physical fitness, teamwork and community service. This program also involves education, individual counseling and treatment groups.

Many juveniles who are in the justice system have mental health issues that need to be treated. Mendota Juvenile Treatment Center is designed, according to their mission statement, to provide psychological evaluations, specialized treatment, training, programs and supervision to delinquent youths who have behavior and mental health needs. A specialized treatment such as this is not offered in the State of Wisconsin adult court system for juveniles.

Southern Oaks School is a secured juvenile facility for girls in Wisconsin. Southern Oaks offers transition team meetings that help the juvenile girls who are about to be released back into the community. They also work with the girls and develop career portfolios, which include attainable goals. Southern Oaks mandates many treatment groups. One in particular that helps establish family connections by teaching the girls communication skills and how to express

their feelings. Southern Oaks also has anger management classes, AODA counseling and life skills training. Many juveniles who are in the justice system have mental health issues that need to be treated. Mendota Juvenile Treatment Center is designed, according to their mission statement, to provide psychological evaluations, specialized treatment, training, programs and supervision to delinquent youths who have behavior and mental health needs. A specialized treatment such as this is not offered in the State of Wisconsin adult court system for juveniles.

If a juvenile remains in the juvenile program, there are many treatments available to them such as group and shelter homes that specialize in working with delinquent children, programs that offer mental health counseling, anger management classes, and drug and alcohol treatment as well as counseling. Juvenile court also fulfills juvenile's educational needs and often times offers job training. Juvenile court also has programs designed to make sure the juvenile is doing what they are suppose to in school and monitor other aspects of the child's life. The juvenile court is specially designed to offer alternatives to juvenile delinquents. Juvenile court also places great emphasis on making sure the juvenile continues their education, whether they are placed in a secure custody or out in the community at a foster or group home.

## **Consequences**

The wavier to adult court poses many consequences to juvenile delinquents. The juveniles are not given the opportunity to participate in the programs that are supposed to help in rehabilitation. This affects a large amount of the population of juvenile offenders. According to a study done by Bishop, Frazier, Lanza-Kaduc, & White (1999) regarding the transfer of juveniles into adult court in Florida, in the year of 1995, 5,000 juveniles were transferred into adult criminal court. This was more than 10% percent of the total juvenile offenders handled in

the state of Florida that year. During this same time in Florida, 8,100 juveniles were sentenced and treated in juvenile facilities (Bishop, Frazier, Lanza-Kaduc & White, 1999).

Redding (2003) explains that the primary reason states revised laws in order to make it easier to waive juveniles into adult court was due to public concern about juvenile crime. Redding also argues that waivers come with “tremendous consequences” for juvenile offenders. The consequences includes incarcerations sentences, abuse in adult prison’s and the loss of all “protective rehabilitative possible available.” Juveniles that are handed down adult sentences have a much higher rate of recidivism. The research on if juvenile judicial waivers are performing their intended goal of deterring juvenile crime is debatable (Redding, 2003).

One study created by Jensen & Metsger (2004) did a time analysis of five years before the 1981 Idaho automatic transfer of juvenile’s statute was passed, and it found a 13% increase of arrest rates for violent juvenile offenses after the automatic transfer law was passed. Even though the violent crime rates in the states of Montana and Wyoming where there is no automatic transfer law decreased. Another similar study was done by McDowa & Singer (1987). It was done in the State of New York. This study was done four years prior to the automatic waiver law of juveniles was passed, and it was also done six years after the law was implemented. It found the law that automatically waived juveniles into the adult court system had no deterrent effect for juveniles.

Redding recommends that further studies should be conducted in order to make a better analysis whether or not juvenile’s criminal behaviors are prevented due to automatically being waived into adult court (Redding, 2003). There are many reasons why a juvenile should not be transferred to adult court. When they are transferred, they face “tremendous consequences.”

If juveniles are waived into the adult court system any chance they have of being helped by the juvenile system is destroyed. If juveniles are adjudicated to adult court and are imprisoned in adult corrections, when they are released back into the community, they will face many barriers such as the hardships getting employment with having a criminal record and not qualifying for federal financial aid for college tuition. These are just a few examples of the hardships juveniles will face once they are out of the adult system. According to Mukamal (2004), who did a two year study on released prisoners for the Legal Action Center of New York and Washington D.C., it was found that most states allow employers to deny jobs to anyone with a criminal record. Many states also ban people with drug felonies from being eligible for public assistance as well as food stamps. All but two states restricted the right to vote if you had a criminal record. The study found that former inmates with criminal records who were convicted of drug related offenses are ineligible for any grant, loan or work assistance due to the Higher Education Act of 1998. No state can overturn this ineligibility since it is federally mandated. These are some of the “tremendous consequences” that youth who have been adjudicated in adult court face upon their release.

In conclusion, when juveniles are waived to adult court, they face many consequences such as not being able to finish their high school education, receive anger management treatment, and get counseling or drug rehabilitation. If juveniles are waived into the adult court system, any chance they have of being helped by the juvenile system is destroyed. There are many theories on why juveniles commit crime; two of these theories are applicable to these recommendations. The first theory is the Social Learning Theory of Crime and the second theory is the Social Control Theory of Crime. Both of these theories will be examined and used to explain why juveniles commit criminal acts.

### **III. THEORIES OF CRIME, SOCIAL LEARNING THEORY, AND THE SOCIAL CONTROL THEORY.**

#### **A. Social Learning Theory**

The social learning theory of crime, as defined by Conklin (2007), is the theory that people learn attitudes and techniques contributing to crime in both nonsocial and social situations and from positive and negative reinforcements that stem from their behavior.

The social Learning theory of crime is a good explanation to why juveniles commit criminal acts. Social learning theory was established by criminologist Ronald Akers and his colleague Robert Burgess. They based the social Learning theory of crime off of criminologist Edwin Sutherland's theory of Differential association. Akers & Burgess use the social learning theory to explain criminal delinquency and deviant behaviors. The social learning theory proposes that criminal behavior is a learned behavior. Akers & Burgess break down the social learning theory of crime into a seven statement theory. The first statement is that criminal behavior is learned according to the principles of operant conditioning. The second statement is that criminal behavior is learned through both social and nonsocial situations, and it is reinforced through social interactions. The third statement is that the principal part of learning criminal behaviors occurs in groups in which the individuals are the source of reinforcement. The fourth statement is that the learning of criminal behavior includes specific techniques, attitudes, and avoidance procedures. The fifth statement states behaviors are learned and that their frequency of occurrence is a function of the reinforcements. The sixth statement says that criminal behavior functions as a norm and is highly reinforced. The seventh statement regarding the social learning theory of crime, according to Akers, is that the strength of the criminal behavior

is directly related to the amount and frequency of reinforcement of the criminal activities (Akers, 1985).

Social learning theory argues that people learn attitudes and techniques contributing to criminal behavior both in social and non-social situations. These behaviors are aided with positive reinforcements which are considered rewards and negative reinforcements such as punishments. Social learning theory contends that criminal activity is learned through observation and intimidation. The theory believes that juveniles commit criminal acts because they are a learned behavior. Juveniles learn how to commit criminal acts from their peers and from observing such acts in the community in which they live.

According to social learning theory, if juveniles live in an area where gangs are common, they are more likely to join the gang due to intimidation and by observing the gang's criminal activity. Many juveniles are easily intimidated and influenced which leads them to succumbing to peer pressure. They are also likely to join in when the rewards at the time outweigh the chance of getting caught. For an example, juveniles are more likely to steal a new pair of tennis shoes because wearing the fancy shoes (positive reinforcement) outweighs the consequences of getting caught at the time of the action. If they are not caught the first time they steal, then their actions will normally continue until they face the negative reinforcement such as probation time for stealing (Conklin, 2007).

The social learning theory makes the suggestion that delinquency is a learned behavior, which has both positive and negative reinforcements. If a juvenile is held in juvenile court, there are many mandated services which are provided to the juvenile. Services such as group home placements and foster care, take the juvenile out of their current environments where the juvenile is committing delinquent acts and places them into a better environment where they are able to

learn positive reinforcements for good behavior and negative reinforcements for bad behavior such as breaking laws. The juvenile is taken out of their environment and taught that bad behavior, such as stealing shoes, has consequences, which they would not have learned if they were still in their old environment. Juveniles should stay in juvenile court because it offers the most rehabilitative services. If a juvenile is waived to adult court, they will not be able to benefit from such services and be rehabilitated.

The social learning theory advocates that delinquency is learned by adolescents from intimation and observing others' behavior. It is reinforced by positive and negative reinforcements. The social learning theory is one explanation of why juveniles commit criminal acts and become juvenile delinquents. Another theory that explains juvenile delinquency is the social control theory of crime.

## **B. Social Control Theory of Crime**

Social Control Theory of Crime, conceptualized by Travis Hirshi. is the theory that people who engage in crime or delinquency are relatively free from intimate attachments, aspirations and moral beliefs that would bind them to a conventional and law abiding way of life (Conklin, 2007). Hirshi (1969) uses the social control theory to explain delinquency. The reason juveniles commit criminal acts, according to Hirshi (1969), is due to the juvenile's individual bonds to society being weak or broken. There are four main elements to bonds according to Hirshi. The first bond is attachment. The attachment bond is comprised of love and affection. According to Hirshi, the more a juvenile cares for the opinion of others, the less likely they are to commit delinquent acts. The second element is commitment: the bond of aspiration, investment or ambition. The greater the juveniles stake in conformity, the less likely they will commit delinquent acts. The third element is that of involvement: the restriction of opportunity to

commit delinquent acts by engaging in conventional activities. This bond states that the juveniles are less likely to commit delinquent acts if they are involved in conventional activities such as sports or the Big Brother Big Sisters program. The fourth bond is that of belief: the bond to conform which states that crime is morally wrong (Hirschi, 1969).

Conklin (2007) explains that according to Hirschi's Social Control Theory, juveniles are not forced into delinquency. They engage in delinquency because they lack the ties of attachment that normally would prevent them from engaging in such activities. The social control theory also theorizes that all four bond elements need to be met in order to prevent juvenile delinquency. There are also three major groups in which help establish bonds. These groups are the family, the school and the peer group. Hirschi's research has shown that juvenile delinquents are less attached to their parents than their peers who do not commit criminal acts. School also plays a significant role developing social bonds in a juvenile's life. If a juvenile is successful at school and earns good grades, they are less likely to commit criminal acts. If the juvenile also cares about what their teachers think of them, Hirschi's research shows they are less likely to commit criminal acts. The peer group bond is an important part of Hirschi's Social Control Theory as well. Hirschi's research found that juveniles who had weak relationships with their parents often times have weak relationships with their peers. If juveniles hang out with peers that commit delinquent acts, they are more likely to commit delinquent acts as well.

Each social bond is a very important element in order to prevent adolescents from becoming delinquents according to the social control theory. Adolescents who form positive bonds within their family, their school and their peer group are less likely to commit criminal acts. Both the social control theory of Crime and the social learning theory of crime give two different, but valid, arguments of why juveniles commit criminal acts. A juvenile's risk of

becoming a juvenile delinquent is greatly higher if they have a lack of social bonds, and they are taught and exposed to criminal activities.

### **C. Conclusion of Theories**

The Social Control Theory believes that with good stable social bonds in place, juveniles will not commit criminal acts. When juvenile offenders stay in the juvenile justice system, they receive specialized services such as therapy. With the help of programs such as counseling mandated by the juvenile court system, juveniles are able to repair damaged social bonds. After strengthening their social bonds, juveniles, according to the Social Learning Theory, will be less likely to commit criminal acts. Strengthening their social bonds helps aid in rehabilitating juveniles. If juveniles are transferred to adult court system, they are not mandated to attend programs such as counseling. Also if the juvenile is waived to adult court, there are not as many programs available to them.

Both the Social Learning and Social Control Theories of Crime explain why juveniles commit criminal acts. It is up to the United States justice system to offer rehabilitation services to delinquent juveniles in order to help change their lives around. If juveniles stay in the juvenile court system, these programs are mandated. If the juvenile is waived to adult court, these services are not mandated and are limited in availability. In order to offer juveniles a chance at rehabilitation, they must stay in the juvenile system. To make juvenile court programs assessable to all of our juvenile delinquents in the United States, here are the recommendations for the justice system and the arguments for why allowing all juveniles access to rehabilitative programs is a must.

#### **IV. RECOMMENDATIONS FOR THE JUSTICE SYSTEM**

Our juvenile justice system in the United States was created in order to not only deal with juvenile delinquency but to help reduce it. Our juvenile justice system offers rehabilitation to juvenile delinquents in order to help make them productive members of society. In order for our justice system to continue to offer help to our society's juveniles, changes need to be made. The first change we must make is to have a unified system as it applies to the adjudication of juveniles.

##### **A. Uniform Adjudication Laws for Juveniles in the Justice System**

In the United States each state is looked upon to establish their individual juvenile justice system. Each state is allowed to make and enforce waiver laws and determine at what age juveniles can be waived into adult court. States are able to determine what criminal acts can waive a juvenile under the age of 18 to adult court. There is not a unified justice system when it comes to the adjudication of juveniles. This should be changed in order to better serve and rehabilitate juvenile delinquents.

The Supreme Court of the United States should continue to make rulings in favor of juvenile rights. The Congress of the United States should pass legislations that mandate that all juvenile delinquents under the age of 18 be processed in the juvenile court system. Since the juvenile court system is specially designed for the rehabilitative needs of juveniles while the adult court system is not. Therefore, juveniles should stay in the juvenile system at least until the age of 18. If a juvenile commits a violent offense, they should face blended sentencing.

Congress should pass legislation that mandates blended sentencing laws in all states. Only 17 states have blended sentencing laws right now. Blending sentences authorizes criminal courts to sentence juveniles who have been tried and convicted in the adult courts to supervision

and programs that are only offered in the juvenile court (Griffin, 2008). Even though the juvenile was waived to adult court, they can seek treatment in the juvenile system until they reach the age of 18. After the juvenile turns 18 years of age, they could continue their sentence in the adult justice system. Blended sentencing should be mandatory in all states.

The Congress should also mandate that all juveniles under the age of 18 be housed in juvenile facilities. No juvenile should ever be housed in a prison or jail. Juvenile delinquents safety should be an upmost concern of our justice system.

Our current justice system is in need of change in order to better serve our juveniles who are in the court system. If the United States Congress, does not reform the justice system to fit the needs of juveniles, then each independent state should reform their laws to better suite juveniles. In 2008, there were an estimated 2.1 million arrests for persons under the age of 18 (Puzzanchera, 2008). Even though juvenile crime rates in the United States continue to decrease, there are still many juveniles that enter the justice system each year. These juveniles that enter into the system can be waived in adult court. It is estimated that 200,000 juveniles are waived into adult court each year (Hartney, 2006). These juveniles are not offered the same rehabilitative programs that their peers, who stay in the juvenile justice system, are. These rehabilitative programs should be offered to all juveniles. The juvenile justice system is specifically designed to help juveniles and this is why they should stay in this system at least until they reach the age of 18.

Another recommendation in order to better facilitate our juvenile delinquents in the United States is to determine what juvenile programs are successful in lowering juvenile's recidivism rates. Currently, it is left up to each state to offer rehabilitation programs to juvenile offenders. Juvenile court programs should be studied closely in each state to determine which

ones are most successful. The more successful programs should be implemented in every state. In the State of Wisconsin, there are many different kinds of specialized programs that are currently offered.

### **B. Programs for Juveniles in the State of Wisconsin**

The juvenile justice system in Wisconsin offers juvenile delinquents a wide variety of rehabilitative programming. These programs allow the juvenile to work on many different issues as well as continue their education and strive to be an all around better individual. These programs try to reestablish the juvenile's social bonds as well as help the juvenile make their own decisions without the intimation of others in their community. If the juvenile is waived to the adult court system, they are not offered these beneficial programs. While funding research on juvenile court programs, the government should also fund more studies regarding juvenile brain research. Understanding juvenile brain development would help social workers, criminologists and the court system implement programs that would better aide in decreasing juvenile delinquency. Brain development research also makes the suggestion that brain development in the juvenile brain is not fully developed when they are under 18 years of age and that juveniles should not be waived to adult court.

### **C. Juvenile Brain Development**

In order to get a better understanding of why juveniles make the choices they do and how programs can help them make better decisions, we first must understand their brain development. Brain development is currently a major reason we should support changing the legislative laws. Research that is available now indicates that juveniles brains do not full develop until their early 20's. The behaviors of youth in high emotional context make it difficult for adolescents to engage intellectually. This might lead to why youths engage in criminal group activity. Overall,

the issue seems to be that adolescents' brains develop slower than originally thought; therefore, when they commit crimes they might not understand the full effect of what they are doing and are just acting on impulses.

Due to this latest research on adolescent brain development, many states, including Wisconsin, have been working with human services and legislators to change their laws to make sure those juveniles who do not pose a threat to the general public are treated in the juvenile justice system instead of quickly being waived to the adult court system.

#### **D. Recidivism Rates**

Besides the new research on juvenile brain development, recidivism rates are also another good reason on why juvenile delinquents should stay in the juvenile court system rather than be waived into the adult system and why the justice system should be reformed. Transferring juveniles to an adult court, and making them serve out their sentence in adult jails, increases the recidivism rate among the delinquents once they are released (Hartney, 2006). It does not make sense to put juvenile criminals who sleep with their teddy bears alongside hardened adult criminals. Drogin (2007), along with many other such researchers, make arguments that the very latest research suggests that juveniles who experience the adult justice system on average commit more criminal acts once released than juveniles in the juvenile justice system. Research shows that rehabilitative programs, even the ones that treat violent offenders in the juvenile system, reduce recidivism rates once the juvenile is released. Hartney (2006) also makes the argument that youths held in adult facilities are more likely to commit criminal acts again than similar offenders who are kept in the juvenile system. Most juveniles have a chance to be rehabilitated and become productive members of society, whereas adult offenders are not as easy to rehabilitate. According to Katel (2008), studies of recidivism rates of juveniles show that in

2005, 49% of juveniles transferred to adult court committed new crimes after release in contrast to only 35% of offenders who were kept in the juvenile justice system (Katel, 2008).

Juvenile delinquents should stay in the juvenile court system because the programs are specially designed for their needs. Recidivism rates for a juvenile offender, who spends their time in the juvenile system, are lower than their peers that are waived to adult court. Studies have also shown that waving juveniles to adult court does not deter juvenile delinquents from committing criminal activities.

### **E. Public Opinion**

Another valid reason that children should continue to stay in the juvenile court system until they are 18 and legally an adult is due to the fact that many voters in the United States believe that spending money on rehabilitation of juveniles programs and treatments for adolescents will save tax dollars in the long run. Krisberg & Marchionna (2007) conducted a survey of 1,043 adults by telephone and found that 80% of respondents agreed that juveniles should be tried in juvenile court rather than waived into the adult court system since the juvenile system offers treatment and rehabilitation programs. Also, 67% of the voters surveyed in the study said that young people should not be incarcerated in jails and prisons that have adult prisoners. Seven out of 10 of those voters surveyed also felt that incarcerating a juvenile under the age of 18 in adult facilities increased the likelihood of recidivism. 89% of those surveyed also felt that rehabilitative services and treatment for juvenile delinquents will help prevent future crime (Krisberg &, Marchionna, 2007).

Many people outside of the criminal justice profession agree that juveniles should stay in juvenile court so they are able to benefit from the juvenile courts rehabilitative services. Juvenile delinquents should also be kept in juvenile facilities for their own safety.

## **F. Safety and Mental Health of Juveniles in Adult Prison and Jail Systems**

The safety of juveniles who are adjudicated into the adult court system should also be taken in concern. Juveniles who are housed in adult jails or prisons must be supervised closely so they are not harmed by other inmates. Juveniles who are held in a prison or jail with adult offenders are exposed to “role models” in jail and in prisons. Juveniles often look up to other inmates who are older and have committed criminal acts, which encourages the juveniles to continue to engage in criminal behaviors. Juveniles who are imprisoned also have a higher rate of committing suicide than any other prisoner. Juveniles are in danger of being sexually assaulted while incarcerated in an adult prison or jail. When juveniles are placed in a juvenile facility, they are looked after by staff that is specially trained to deal with juveniles and their issues.

According to the Bureau of Justice Statistics, in the year 2005-2006, between 21% and 13% of all sexual violence victims were juveniles. Juveniles who are held in adult prisons face major psychological effects. These juveniles are faced with the constant fear of either being physically or sexually attacked by other inmates and sometimes by the correction officers. Juveniles who are housed in juvenile facilities are supervised by staff that have been specially trained and are skilled in taking care of the needs of juveniles. Also juveniles that are housed in adult facilities are 19 times more likely to commit suicide than their peers that are housed in juvenile facilities (Arya, 2007).

Juveniles should stay in the juvenile justice system until they are 18 for many reasons. Two of these reasons are because of their safety and for their mental health. Juveniles are safer in juvenile facilities that specialize in caring for them. If juveniles are placed in a juvenile

facility, they will not be around adult criminals. The absence of adult criminals removes the chance of being influenced by hardened criminals and the juvenile's safety will not be endangered by adult inmates. Juveniles should also continue to stay in the juvenile justice system for their mental health. Juvenile facilities have programs to help them maintain their mental health. If juveniles are placed in adult prisons or jails they receive inadequate care which is detrimental to their mental health and general well being.

## V. SUMMARY AND CONCLUSION

The juvenile justice system in the United States was founded in 1899 and still continues to serve juvenile delinquents today. The goal of the juvenile justice system is to take in consideration the special needs and circumstances of juveniles to treat the root cause of the delinquency. The juvenile justice system was established in order to treat and rehabilitate juvenile delinquents with specialized mandated program so they are able to become productive adults.

Congress has also helped juvenile delinquents by passing acts such as The Juvenile Delinquency Prevention and Control Act which allocated federal funds to the states for their juvenile justice systems. With the federal funding, the states were able to start juvenile programs and create facilities to help juvenile delinquents. Since the passing of the Juvenile Delinquency Prevention and Control Act, improvements on the law have been passed in order to help fight delinquency with juvenile delinquency programs while using the help of law enforcement.

Due to rulings made by the Supreme Court of the United States, juveniles are granted the right of due process while in the court system. These rulings by the Supreme Court of the United States determined that juveniles are not allowed to face double jeopardy, the death penalty and cannot be sentenced to prison without the chance of parole. However from the ruling of *Kent v. United States* by the Supreme Court, juveniles can be tried as adults depending on the factors of the criminal act that they committed. The Supreme Court of the United States has not issued many guidelines for the states to follow. Each state is allowed to waive juveniles to the adult court system at different ages and for different crimes. These laws need to be implemented on a national level so each states follow the same age guidelines and waives juveniles to adult court for the same crimes. A unified juvenile court system needs to be instituted in the United States

in order to offer mandated rehabilitative services to all juvenile delinquents under the age of 18. This unified justice system could also be constructed if Congress would enact laws mandating that all juveniles under the age of 18 be considered a juvenile on federal law.

In the State of Wisconsin the proposed legislation AB 732 would prohibit the automatic waiver of 17-year-olds who commit non-violent crimes to adult court and should be passed. Many social service agencies in Wisconsin and across the United States are continually fighting for 17-year-olds to be able to stay in the juvenile system. Juvenile delinquents under the age of 18 should be allowed to participate in the rehabilitative programs that the juvenile system has to offer in an effort to help make them productive adults when they exit the system. Other States besides Wisconsin need to reform their legislation as well to keep juveniles under the age of 18 to stay in juvenile court. States also need to only use programs that help aid juvenile delinquents. Each state should research their current programs in order to see from which programs the juveniles are benefitting the most.

The juvenile crime rate is decreasing in the United States while juveniles are continually being waived to the adult court system. The legislations that were passed in the 1990's took a tougher stance on crime and need to be reformed in order to offer juvenile delinquents the mandated rehabilitative services that are offered in the juvenile court system. If juveniles are waived to adult court they face sentencing in adult jails and prisons that do not offer the specialized programs. There are many reasons why juveniles should be allowed to stay in the juvenile justice system until the age of 18. One of those reasons is due to new brain research on juvenile brain development.

Recent research on juvenile brain development research has found that juveniles' brains do not fully develop until their 20's. This research has also shown that juveniles are not able to

weigh the consequences of their actions like adults can. This is because the frontal lobe and lower lobe of their brain has not yet formed a connection. This research has shown that juveniles mature later than originally thought and have a tougher time making the right decisions. Juveniles should be allowed to stay in the juvenile justice system and undergo the rehabilitative programs that are offered in the juvenile system. Neuroscientists as well as social service agencies believe that juveniles should stay in the juvenile court system until they reach 18 due to the new brain research. If juveniles are allowed to participate in the rehabilitative programs that are specially designed for them, they can become educated to make better life choices and in turn have lower recidivism rates.

Another important reason why juveniles under the age of 18 should not be waived to the adult court system is that of their recidivism rate. Studies have shown that juveniles who are waived to adult court have a higher recidivism rate than their peers that are allowed to stay in juvenile court. Besides the fact that juveniles who are waived to adult court have a higher recidivism than those remain in juvenile court, recent public opinion surveys have stated that voters believe juveniles should remain in the juvenile court since the juvenile court offers specialized programs for juveniles. Voters believe that with the help of juvenile programs, juveniles will be less likely to offend.

Juveniles should remain in the juvenile justice system for their own safety and mental health as well. Juvenile facilities are better equipped with staff that is specially trained to deal with juveniles. The juvenile's safety is not threatened by adult inmates when they are placed in juvenile facilities. If juveniles are placed in a juvenile facility, they will not be able to have "adult role model inmates" that would be accessible to them in adult prison. Juveniles mental health needs are better addressed while they are in the juvenile system.

The juvenile court system offers many programs such as different kinds of therapies, anger management, job training, ongoing education, and other such life skills. If a juvenile is waived to adult court they are able to participate in these programs. The juvenile justice system was developed in order to take care of the specialized needs of juvenile delinquents. The juvenile justice system mandates programs that juveniles must participate in. In the adult system some programs are offered but they are no mandated. If juveniles stay in the juvenile system, they are able to finish high school with the help of specially designed programs.

If juveniles are transferred to adult court system, they will face many consequences. They will not receive the care they need, such as psychotherapy or AODA treatment that is aimed towards juvenile delinquents. They will not be able to utilized high school education programs. Upon their release from the adult court system, they will be labeled as a felon and have a criminal record. Juveniles will also face consequences such as difficulty in finding employment. Many employers will not hire someone with a criminal record. If the crime that they committed had anything to do with selling of drugs, they will not qualify for students loans which makes it much harder to obtain a higher education. They are also disqualified for federal housing aid and in most states will not be allowed to vote as they are felons.

In conclusion the United States should continue to abide by the juvenile system's philosophy and stay focused on the needs of juvenile delinquents. The juvenile court system mandates juvenile offenders' participation in programs (Hartney, 2006). These programs follow the goals of rehabilitation which is the key philosophy of the juvenile justice system. Juvenile delinquents under the age of 18 should be allowed to stay in the juvenile court system.

Juveniles have to participate in the specialized programs in the juvenile justice system in order for them to be helped. The programs offered in the juvenile system include: different types of therapy, drug treatment, group homes, mental institutions, education, anger management, job training and probation. Whereas if the juveniles are transferred to adult court system, they are not offered such a wide variety of services and, if services are offered, their attendance is not mandatory like it is in the juvenile system. Once a juvenile is waived to adult court they are always considered an adult in the eyes of the law. All juveniles under the age of 18 deserve a fighting chance. They deserve to participate in the mandated programs that are facilitated through the juvenile system in order to help rehabilitate them and help them get their life on track. If a juvenile is waived to adult court they will normally continue down the wrong path and make bad decisions without the help rehabilitative services that are mandated in the juvenile system they will not learn how to make better choices and will not have the tools to turn their life around. If juvenile delinquents up to the age of 18 continue to stay in the juvenile system, they will have a better chance to become productive citizens once they reach adulthood.

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