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SECOND THOUGHTS ON ADULT COURT FOR VIOLENT KIDS: STATES RESPOND TO RESEARCH SHOWING THAT ADULT COURT MAKES TEENS WORSE OFF.

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A generation after America decided to get tough on kids who commit crimes - sometimes locking them up for life - the tide may be turning.

States are rethinking and, in some cases, retooling *juvenile* sentencing laws. In Wisconsin, a major legislative audit due early next year is examining the effectiveness of a decade-old law that mandates that all 17-year-olds, from accused murderers to accused shoplifters, be tried as adults. Advocates hope the audit, and the findings of a state commission on racial disparities in the justice system, could be catalysts for change.

The states are responding to new research on the adolescent brain, and studies that indicate teens sent to adult court end up worse off than those who are not: They get in trouble more often, they do it faster, and the offenses are more serious.

"It's really the trifecta of bad criminal justice policy," said Shay Bilchik, a former Florida prosecutor who heads the Center for *Juvenile* Justice Reform at Georgetown University. "People didn't know that at the time the changes were made. Now we do, and we have to learn from it."

Rep. Garey Bies, R-Sister Bay, a former Door County chief deputy sheriff and the chairman of the Assembly Corrections and Courts Committee, said Wisconsin's 17-year-olds law represented a "one-size-fits-all" approach.

"For the ones that don't fit, it probably does more damage than it does good," said Bies, who also sits on Gov. Jim Doyle's commission to reduce racial disparities in the justice system. "We've made criminals out of non-criminals."

Juvenile crime is down, in contrast to the turbulent 1990s when politicians vied to pass laws to get violent kids off the streets. Now, in calmer times, some champion community programs for young offenders to replace punitive measures they say went too far.

Some states are reconsidering life without parole for teens. Some are focusing on raising the age of *juvenile* court jurisdiction, while others are exploring ways to offer kids a second chance, once they're locked up - or even before.

Not everyone, though, believes there's reason to roll back harsher penalties adopted in the 1990s.

"The laws that were changed were appropriate and necessary," said Minnesota prosecutor James Backstrom. "We need to focus on the protecting the public - that's No. 1. Then we can address the needs of the *juvenile* offenders."

AGE WAS LOWERED

Nationally, each year about 200,000 defendants under 18 are sent directly or transferred to the adult system, known as criminal court, according to estimates.

Most end up there because of state laws that automatically define them as adults, due to their age or offense. Their ranks rose in the 1990s as *juvenile* crime soared and 48 states made it easier to transfer kids into criminal court, according to the *juvenile* justice center. In 1996, Wisconsin lowered from 18 to 17 the age at which teens accused of any crime are automatically tried in adult court.

The changes were ushered in to curb the explosion in violence - the country's teen murder arrest rate doubled from 1987 to 1993 - and to address frustrations with the *juvenile* justice system.

A series of horrific crimes by kids rattled the nation: A sixth-grader shot and killed a stranger. A 12-year-old stomped and beat a younger playmate. Two grade-schoolers dropped a 5-year-old 14 stories to his death.

Some academics warned that a new generation of "superpredators" would soon be committing mayhem.

It never happened. Drug trafficking declined. An improved economy produced more jobs. And the rate of *juvenile* violent crime arrests plummeted 46 percent from 1994 to 2005, according to federal figures.

"When crime goes down, people have an opportunity to be more reflective than crisis-oriented and ask, 'Was this policy a good policy?' " Bilchik said.

The MacArthur Foundation said in a report to be released this month that about half the states are involved in *juvenile* justice reform. And a national poll, commissioned by MacArthur and the Center for Children's Law and Policy and set for release at the same time, also found widespread public support for rehabilitating teens rather than locking them up.

'TIME IS RIGHT'

In Wisconsin, an upcoming report by the Legislative Audit Bureau requested by Rep. Tamara Grigsby, D-Milwaukee, will examine the effectiveness of the law mandating that 17-year-olds be tried as adults.

John Dipko, spokesman for the state Department of Corrections, said that, with 10 years of experience under the law, the "time is right" for such a review.

Wendy Henderson, who follows *juvenile* justice policy for the Wisconsin Council on Children and Families, said that the law's critics are hopeful the audit will strengthen their case. Work by researchers and Gov. Jim Doyle's racial disparities commission could also help, she said.

"I think we have a very good chance of returning 17-year-olds to the *juvenile* justice system because of the weight of the evidence," Henderson said. "We think there's a lot of momentum."

The Council on Children and Families is pushing for legislation that would raise the 17-year-old threshold for automatically placing offenders in adult court back to 18 for all crimes, she said. Prosecutors could still ask judges to consider trying younger defendants as adults.

Dipko said the threshold should remain at 17 for violent crimes but should be reexamined for less serious crimes. "There's really no question that 17-year-olds that commit violent offenses do need to be held accountable in the adult system," Dipko said.

Wisconsin prosecutors can also seek to charge teenagers younger than 17 as adults, as they successfully did in the case of Eric Hainstock, who shot and killed Weston School Principal John Klang in September 2006.

In August, the then 16-year-old Hainstock was found guilty of murder and sentenced to a mandatory life sentence, which means it will be 30 years before he can ask for release from prison on extended supervision. If he had been tried and convicted as a *juvenile*, Hainstock would have been released by age 25.

Sauk County Circuit Judge Patrick Taggart said that Hainstock, an abused youth from a broken home, probably wouldn't receive adequate treatment for his depression and hyperactivity in adult prison. But the evidence from the murder showed "a level of organization" that demonstrated intent by Hainstock, and the judge said he had to consider whether *juvenile* court penalties would be severe enough to deter other potential school shooters.

VIOLENCE A CONSTANT

Many say the adult and *juvenile* justice systems are dramatically different: *Juvenile* justice emphasizes rehabilitation, adult courts focus on punishment.

Reginald Dwayne Betts, just 16 when he was charged with carjacking in Virginia, was locked up more than eight years, mostly in adult prisons.

"Of course it makes a difference if you're 15, 16 or 17," he said. "You're not prepared to deal with it physically or emotionally."

Violence was a constant. "I got used to stuff most people I see today would never have to get used to - like somebody getting their head split open," Betts said.

Betts had problems at first but gradually retreated into books, taught himself Spanish, wrote and published poetry.

When he was released two years ago at age 24, he won a college scholarship. Now engaged and planning to write a book, he knows he's an exception: "People don't come out of prison and make good," he said.

Some prosecutors say some kids are just too dangerous to be prosecuted as *juveniles* and then be released by age 21.

If a criminal is likely to be free in a few years and do more harm, "then I come down on the side of risking the damage that is done by sending someone to prison," said Gary Walker, a Michigan prosecutor.

"When they tell me placing a younger person in an adult setting is not necessarily for the betterment of the individual," Walker said, "my answer is: 'Who thinks it is?'"

CHANGES IN OTHER STATES

Other states have already begun to make changes in their *juvenile* justice systems:

* In Colorado, Gov. Bill Ritter recently formed a *juvenile* clemency board to hear cases of kids convicted as adults. The head of the panel said it's an acknowledgment that teens are different from adults - a point made in the 2005 U.S. Supreme Court decision that outlawed the death penalty for crimes committed as *juveniles*.

In 2006, the state replaced the *juvenile* life-without-parole sentence with the possibility of parole after 40 years.

* In California and Michigan, *juvenile* life without parole also is getting another look.

* In Connecticut, lawmakers recently raised the age of *juveniles* to 18 for most cases; the changes will be phased in by 2010. Prosecutors can still transfer felonies to adult court.

* In Illinois, a proposal to move 17-year-olds charged with misdemeanors to *juvenile* court passed in the state Senate and is pending in the House.

* In Wyoming, talks are under way to shed a system that routinely charges and jails *juveniles* as adults even for minor offenses such as underage drinking.

This is the first in an occasional series on ways in which America is reconsidering its get-touch approach to juvenile justice.

Illustration: JACQUELYN MARTIN -- Associated Press

Reginald Dwayne Betts spent eight years in mostly adult prisons after being charged with carjacking at age 16. The 27-year-old is studying English at the University of Maryland.

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