

# Joint Legislative Task Force on Juvenile Sentencing Reform

*Committee Report and Recommendations*

December 2014  
Report to the Legislature



# Introduction

## Background

In 2014, the Legislature passed 2SSB 5064, which modified state laws on juvenile sentencing and created the Joint Legislative Task Force on Juvenile Sentencing Reform (“Task Force”).

2SSB 5064 was a response to the U.S. Supreme Court’s decision in *Miller v. Alabama*, 567 U.S. \_\_\_\_ , 132 S.Ct. 2455, 183 L.Ed. 2d 407, (2012), in which the Court held that mandatory sentences of life without the possibility of parole are unconstitutional for juvenile offenders as being in violation of the Eighth Amendment prohibition against cruel and unusual punishment. The *Miller* opinion was the third in a series of three major pronouncements addressing the issue of proportionality of criminal punishment for youthful offenders. The first case was *Roper v. Simmons*, 543 U.S. 551, 560, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005) in which the Court held that imposition of the death penalty against a person who committed the crime while under the age of 18 constituted cruel and unusual punishment. The second case was *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed. 2d 825 (2010) in which the Court extended *Roper* to prohibit sentences of life without possibility of parole for non-homicides committed by juveniles. Finally, came *Miller*, which as stated above, extended *Roper* and *Graham* to bar a sentence of life without parole for even homicides committed by youth. In all three cases, the United States Supreme Court, relying on substantial and compelling brain science, as well as “emerging standards of decency” concluded that children who commit crimes, even horrific crimes, must be sentenced in a manner that recognizes their youth, culpability and capacity to change.

2SSB 5064 responded to this line of cases by creating a new sentencing scheme for juvenile offenders convicted of aggravated murder and authorized the possibility of parole for juvenile offenders with sentences longer than twenty years. The bill also created the Task Force to examine further possible changes to juvenile sentencing laws.

The Task Force was required to undertake a thorough review of juvenile sentencing as it relates to the intersection of the adult and juvenile justice systems and make recommendations for reform that promote improved outcomes for youth, public safety, and taxpayer resources. The review must have included, but is not limited to:

1. The process and circumstances for transferring a juvenile to adult jurisdiction, including discretionary and mandatory decline hearings and automatic transfer to adult jurisdiction;
2. Sentencing standards, term lengths, sentencing enhancements, and stacking provisions that apply once a juvenile is transferred to adult jurisdiction; and
3. The appropriate custody, treatment, and resources for declined youth who will complete their term of confinement prior to reaching age 21.

The bill mandated that the Task Force submit its findings and recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2014. This report is intended to fulfill this requirement. The Task Force expires on June 1, 2015.

## Task Force Members and Represented Organizations

The Task Force is comprised of the following members representing the following entities or organizations:

<b>Member</b>	<b>Representing</b>
Senator Jeannie Darneille (Co-Chair)	Washington State Senate
Representative Brad Klippert (Co-Chair)	Washington House of Representatives
Senator Mike Padden	Washington State Senate
Representative Roger Goodman	Washington House of Representatives
Sandy Mullins	Office of Financial Management
John Clayton	Juvenile Justice & Rehabilitation Administration
Bernie Warner	Department of Corrections
The Honorable Helen Halpert	Superior Court Judges Association
Dan Satterberg	Washington Association of Prosecuting Attorneys
Travis Stearns	Washington Defender Association/WACDL
Cody Benson*	Washington Coalition of Crime Victim Advocates
Pete Peterson	Juvenile Court Administrators
Mitch Barker	Washington Association of Sheriffs & Police Chiefs
Rob Johanson*	Law Enforcement
The Honorable Janice Ellis	Sentencing Guidelines Commission

The Task Force elected Senator Jeannie Darneille and Representative Brad Klippert as co-chairs. Administrative support and other staffing was provided by Senate Committee Services and the House Office of Program Research.

\*Cody Benson and Rob Johanson were appointed to the Task Force, but did not participate

## Task Force Activities

### Committee Meetings

The Task Force convened five meetings over the course of the 2014 interim, occurring on May 27, July 15, September 11, October 21, and November 17. All meetings were open to the public and included time allotted for public comments.

The Task Force received reports and testimony from various state entities and organizations on current issues, proposed reforms, and alternative sentencing models, including, but not limited to:

- Data and analysis pertaining to juveniles sentenced as adults in Washington from the Washington Office of Financial Management;
- Data and analysis pertaining to the effectiveness of declining juvenile court jurisdiction of youth from the Washington Institute of Public Policy;
- Report on experiences and reforms related to exclusive adult jurisdiction and decline hearings from representatives of the Washington Association of Prosecuting Attorneys and Washington Defender Association;
- Analysis of the out-of-home placement history of juveniles sentenced as adults from the Department of Social and Health Services;
- Current issues and proposed reforms on the custody and treatment of youth transferred to adult jurisdiction but who complete sentencing prior to turning age twenty-one from the Juvenile Justice & Rehabilitation Administration (JJ&RA) and Department of Corrections (DOC); and
- Staff research and analysis on Washington's current jurisdiction, sentencing, and custody laws, other state models, and proposed reforms.

The Task Force also collected written testimony and research from its own membership and outside organizations. To facilitate productivity, the Task Force surveyed its own membership with respect to specific interests and policy positions. Eight of the Task Force's fifteen members responded to the survey, and the Task Force used the responses to devise meeting agendas and facilitate roundtable discussions among the membership.

Task Force members and stakeholders were encouraged to submit policy options for consideration by the group. The Washington Defender Association/Washington Association of Criminal Defense Lawyers and Dr. Eric Trupin with the University of Washington submitted policy options for consideration in addition to policy options generated as a result of member discussion.

## I. Transfer of Youth to Adult Courts

### Current Law

In Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under the age of 18 who are alleged to have committed a crime. However, there are several exceptions, and state law requires youth to be tried in adult courts, either superior courts or courts of limited jurisdiction, in certain circumstances. There are generally five scenarios where persons under the age of 18 are tried in adult courts:

1. Discretionary Decline Hearing Process (see RCW 13.40.110(1)). The juvenile court has the discretion to hold a hearing on whether to "decline" juvenile court jurisdiction on its own motion or when a party files a motion requesting the court transfer the juvenile to adult criminal court.
2. Mandatory Decline Hearing Process (see RCW 13.40.110(2)). The juvenile court is required to hold a decline hearing in the following circumstances, unless waived by the court and all parties:
  - The juvenile is 16 or 17 and is alleged to have committed a class A felony or attempt, solicitation, or conspiracy to commit a class A felony;
  - The juvenile is 17 and is alleged to have committed assault in the 2nd degree, extortion in the 1st degree, indecent liberties, child molestation in the 2nd degree, kidnapping in the 2nd degree, or robbery in the 2nd degree; or
  - The information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
3. Exclusive Adult Court Jurisdiction (sometimes erroneously referred to as "Automatic Transfer" or "Automatic Decline") (see RCW 13.04.030). The adult criminal court will have exclusive jurisdiction over a juvenile when the juvenile is 16 or 17 on the date of the alleged offense and the alleged offense is:
  - A serious violent offense;
  - A violent offense and the juvenile has a criminal history consisting of a prior serious violent offense; two or more prior violent offenses; or three or more of any combination of a class A felony, class B felony, vehicular assault, manslaughter in the 2nd degree;
  - Robbery in the 1st degree, rape of a child in the 1st degree, or drive-by shooting;
  - Burglary in the 1st degree and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
  - Any violent offense and the juvenile is alleged to have been armed with a firearm;

If the juvenile is found not guilty of the charge for which he or she was transferred or is convicted of a lesser included offense, the juvenile court will have jurisdiction of the disposition of the remaining charges in the case.

The prosecutor and the respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction and remove the proceeding back to juvenile court with the court's approval.

4. Once an Adult, Always an Adult (see RCW 13.40.020). Once a juvenile is declined to adult court jurisdiction, he or she will be subject to exclusive adult jurisdiction for all future actions. However, if the juvenile is found not guilty or acquitted of the crime for which he or she was transferred, this provision will not apply.
5. Certain Crimes and Infractions in Courts of Limited Jurisdiction (see RCW 3.04.030(1)(e)(iii)). If a juvenile is 16 or 17 and he or she is charged with a traffic, fish, boating, or game offense, or an infraction, then the case is referred to a court of limited jurisdiction (district or municipal court). For further discussion of this topic, refer to Section IV. below.

### **Task Force Discussion and Policy Options**

The recent U.S. Supreme Court case and other societal changes have caused some stakeholders to criticize certain aspects of policies that transfer youth to adult courts. Further, a recent report by the Washington State Institute of Public Policy (WSIPP) entitled, “The Effectiveness of Declining Juvenile Court Jurisdiction of Youth,” found that recidivism is higher for youth who are sentenced as adults under the exclusive adult jurisdiction scheme than for those tried in juvenile courts for similar crimes prior to the policy going into effect.

The Task Force reviewed the WSIPP study and heard testimony from various stakeholders with respect to youth transferred to adult courts. The concerns primarily focused on exclusive adult jurisdiction, which differs from the discretionary or mandatory decline process where the court has the ability to conduct an individualized assessment of each youth and case. Opponents of exclusive adult jurisdiction emphasized the importance of evaluating the circumstances of each case and allowing the court to make the decision. Alternatively, proponents of the policy stated that prosecutors conduct a comparable individualized assessment when determining how to charge a case, and the policy of exclusive adult jurisdiction is appropriate because it is limited to the most violent crimes. Some members also expressed concern that taking away exclusive jurisdiction and requiring a hearing in these scenarios would increase costs to the counties.

In addition to discussing the potential elimination of exclusive adult jurisdiction, the Task Force reviewed a number of additional policy options:

1. Eliminate robbery in the first degree from the list of offenses requiring exclusive adult jurisdiction without a decline hearing. In discussing whether exclusive jurisdiction should be eliminated, some members suggested that a lesser approach could be taken by removing the crime of robbery from the list of offenses requiring that juvenile jurisdiction be declined. Data was gathered showing that for the years 2007 through 2011, over 50% of exclusive jurisdiction cases were in adult court as a result of a robbery charge.
2. Restrict discretionary decline hearings to juveniles age (fourteen) and older. Washington is one of two states that allow for the discretionary transfer of a youth to adult court at any age. 20 states restrict discretionary transfer to juveniles age fourteen or older.
3. Adopt individualized criteria to be considered by the court in determining whether to decline jurisdiction consistent with *Miller v. Alabama* (expounding on the Kent factors). The court uses the “Kent factors” from *Kent v. United States* in determining whether it is

appropriate to decline jurisdiction for a youth. Some members believe it would be appropriate to adopt criteria in statute, incorporating more of the individualized factors from *Miller v. Alabama*, such as:

- a. The youth's sophistication or maturity
- b. Relation between the child's behavior and physical or mental problems;
- c. Amenability to treatment;
- d. Previous delinquent history;
- e. Success of previous rehabilitation attempts; and
- f. Circumstances and gravity of the alleged offense, and the interest of public safety.

Other members believe that opportunities already exist for defense counsel to present these factors to the court and therefore codification is not needed.

4. Eliminate mandatory decline. Statutory language specifies that unless waived by the court, the parties, and their counsel, a decline hearing must be held when the youth is 16 or 17 years old and is alleged to have committed certain crimes. Practice appears to vary across the state, but members reported that at least one jurisdiction will hold a decline hearing in every situation where the youth meets age and crime criteria. Some members argued that the statute should be further clarified.
5. Allow an offender who is subject to exclusive adult jurisdiction to petition to be returned to juvenile court (reverse waiver). This option was offered as a way to ensure the court looks at the individual circumstances of an offender in determining whether adult court is the appropriate forum. Some proponents argue this could be used in conjunction with a blended sentence, suspending the adult sentence pending completion of juvenile sanctions. Some members worried about the cost of conducting a hearing for every or nearly every exclusive jurisdiction case. Still other members worried about the consistency of leaving the discretion to defense counsel as to whether to petition for reverse waiver and the potential for claims of insufficient counsel.
6. Eliminate "once an adult, always an adult." This provision has been part of the statute since its inception in 1977. In 1994, the legislature adopted exclusive adult jurisdiction for certain offenders. The law was amended at that time to clarify that the "once an adult, always an adult" rule only applies in those circumstances where a decline hearing has been held. 34 other states incorporate a similar rule into their transfer provisions.

### **Washington State Partnership Council on Juvenile Justice**

The WA State Partnership Council on Juvenile Justice submitted a Bulletin on juveniles subject to adult court jurisdiction to the Task Force for consideration. The Bulletin contained three principal conclusions:

- Automatic Decline<sup>1</sup> Law Results in Higher Recidivism for Youth: Transferring youth under age 18 pursuant to the automatic decline law in our state is not effective in

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<sup>1</sup> Automatic decline is the same as exclusive adult jurisdiction.

decreasing future criminal offending, but has the counter effect of increasing reoffending. The additional cost to taxpayers was estimated to be \$82,824 per youth due to the increase in length of stay and recidivism. See Drake, E. (2013) *The effectiveness of declining juvenile court jurisdiction of youthful offenders* (Doc. No. 13-12-1902). Olympia, Washington State Institute for Public Policy.

- Significant Impact on Racial and Ethnic Disparities: The automatic decline law (exclusive original criminal court jurisdiction) has a significant impact on minority youth as more youth of color, per capita, are declined for adult prosecution in our state. Youth of color comprise the majority of youth who are transferred to the adult court system, both for automatic declines and judicially controlled transfers.
- The Lack of a Minimum Age Restriction in the Statute for Declination Results in Children of Any Age Being Prosecuted as Adults; Washington State is one of only three states that does not have in effect an age restriction and has broad eligibility (for any criminal offense) for discretionary waivers from juvenile court to adult court. Not having a set age restriction for judicially controlled transfers to adult criminal court per RCW 13.40.110 has allowed youth as young as 11 years old to be found by a Juvenile Court to be capable of committing a criminal offense, and be transferred and charged in adult court (even though the court must hold a capacity hearing to overcome the presumption of incapacity for youth ages 8 to 11).

## Recommendations<sup>2</sup>

- Discretionary decline hearings should be restricted to juveniles age fourteen and older.
- Given the disproportionate impact of exclusive adult jurisdiction and its ineffectiveness in reducing crime, exclusive adult jurisdiction should be eliminated. The court should hold a decline hearing in these circumstances and consider individualized criteria in determining whether to decline juvenile jurisdiction to the offender.

## II. Custody and Treatment of Youth Sentenced as Adults

Current law places time and location restrictions for holding juveniles in adult facilities. A juvenile offender who is convicted in adult criminal court under the age of 18 and who is committed to a term of confinement must be housed in a jail cell that does not contain adult offenders until the offender reaches the age of 18. If the offender is committed to the custody of DOC rather than a local jail, he or she must be placed in a separate housing unit until the offender reaches the age of 18. This is often referred to as “sight and sound separation.”

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<sup>2</sup> Recommendations reflect the majority vote of the committee but not the consensus of all committee members. For the voting record, please see the Summary of Task Force Recommendations at the end of the report.

## **Pre-trial Custody of Juveniles**

When an offender under the age of 18 has been transferred to adult court jurisdiction, state law specifically provides the juvenile may be detained in a juvenile detention facility pending sentencing and is not required to be sight and sound separated from non-remanded juveniles. However, the law is silent on the question of separation during the pre-trial period if the offender is detained in an adult jail.

Some Task Force members expressed concern that counties are holding juveniles in the local jail pre-trial, sometimes for an extended period of time. Practice appears to vary widely by county. Data provided by the Washington Association of Sheriffs and Police Chiefs showed a snapshot of 25 juveniles held in county jails across 9 counties, with 6 of those counties housing 1-2 juveniles. While most Task Force members agreed it is generally not a good practice to house juveniles in jail pre-trial, members believed that counties might have circumstances that make this unavoidable. Members were reluctant to make further recommendations on this issue given that county jail representatives did not sit on the Task Force.

## **Youthful Offenders**

Juvenile offenders committed to the custody of DOC become part of the Youthful Offender Program. DOC will conduct an assessment to determine whether the needs and correctional goals of the youthful offender could better be met by the housing environment and programs provided by a juvenile correctional institution.

Under current practice, youthful offenders less than 18 years of age are housed at JJ&RA. If the youth is expected to complete the term of confinement before the age of 21, that youth remains at JJ&RA. If the youth is expected to serve a term of confinement beyond the age of 21, the case is reviewed when the youth is age 18 to determine if the youth is able to serve the remaining time at DOC.

DOC and JJ&RA recently identified issues with regard to the custody status of those youthful offenders who were expected to complete their term of confinement prior to age 21. DOC and JJ&RA submitted a proposal to the Task Force to transfer custody of these offenders to JJ&RA so that JJ&RA can effectively transition the offenders back to the community in the same manner as other juvenile offenders.

JJ&RA currently houses 45 youthful offenders, which make up 8% of the total JJ&RA population. Of the 45 youth, 35 are between the ages of 18 and 21 and 10 youth are between the ages of 16 and 18. 17 youth will complete their sentence before the age of 21; 15 youth will complete their sentence before the age of 25.

## **Recommendations**

- The proposal submitted by JJ&RA and DOC regarding the custody of youthful offenders should be adopted. Specifically, the proposal provides that:
  - a. Juvenile offenders convicted in adult court would first be sent to DOC for calculation of an early release date and then sent to JJ&RA without further evaluation;

- b. For offenders who will complete confinement prior to age 21, jurisdiction will transfer to JJ&RA for the term of confinement. DOC will be responsible for approving the offender release plan and supervision;
- c. For offenders who cannot complete confinement prior to age 21, DOC will maintain jurisdiction during the term of confinement; and
- d. In either scenario, some youthful offenders will be transferred to a DOC facility prior to age 21 if the youth is a danger to staff or other offenders.

### **III. Sentencing Policies Applicable to Youth in Juvenile and Adult Courts**

#### **Background**

Youth sentenced as adults are subject to different sentencing laws than those that are sentenced in juvenile courts. Juvenile courts sentence persons according to the provisions of Chapter 13.40 RCW, the Juvenile Justice Act, whereas adult courts utilize Chapter 9.94a, the Sentencing Reform Act.

Both adult felony dispositions and juvenile court dispositions are structured by statutorily defined sentencing guidelines, but the juvenile sentencing guidelines differ in significant ways. For example:

- Juveniles sentenced to more than 30 days of confinement are sentenced to a range of confinement, with the actual release date set within the range at the discretion of the state JJ&RA; adults are sentenced to a specific sentence within a specified standard range, but may be released early as a result of "earned release time";
- The maximum age of extended juvenile court jurisdiction is age 21, which limits the term of confinement and supervision that can be given;
- With the exception of supervision time across dispositions, terms of juvenile dispositions are served consecutively; adult sentences are typically run concurrently;

These differences result in circumstances where a youth sentenced in adult court could receive a very different sentence (with the possibility of a longer period of confinement) than he or she would have received if sentenced in juvenile court.

In adult court, this can further be exacerbated by the imposition of mandatory sentence enhancements.<sup>3</sup> The Task Force heard a presentation from the Pierce County Prosecutor regarding Zion Houston-Sconiers, a 17-year old convicted on several counts of robbery, assault, and unlawful possession of a firearm for criminal activities that occurred on Halloween night. Mr. Houston-Sconiers received a sentence of 31 years due to the imposition of the mandatory firearm enhancement. The sentence would have been longer, but the court entered an exceptional downward sentence of 0 years on the underlying charges.

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<sup>3</sup> Although youth who receive dispositions in juvenile court under the Juvenile Justice Act are also subject to some minimum terms, the length of the mandatory minimum terms are far shorter. See e.g. RCW 13.40.193 (Firearm Provisions); RCW 13.40.308 (Auto theft crimes)

The Task Force discussed various approaches to address intermediate responses to juveniles where the juvenile system may be too lenient but adult criminal sanctions may be too harsh. Some Task Force members believe that 2SSB 5064, passed in the 2014 legislative session, already provides this intermediate response. 2SSB 5064 allows an offender convicted of crimes committed prior to turning age 18 to petition for release after serving 20 years.

## **Policy Options**

Policy options discussed by the Task Force were as follows:

- Blended Sentencing. At least 32 other states employ a blended sentencing model. Blended sentencing can take one of two forms, either by giving the juvenile court the authority to impose adult criminal sanctions or by giving the adult criminal court the authority to impose juvenile sanctions. Many times, the court will suspend adult criminal sanctions contingent on the offender successfully completing the terms of a juvenile sentence.
- Expanded jurisdiction. The Task Force discussed various options for expanding the jurisdiction of the juvenile court by adjusting the age of the juvenile over which the court has jurisdiction. The Task Force considered options such as:
  - a. Extending juvenile court jurisdiction to all crimes committed by a juvenile before age 18, but filed prior to the juvenile turning age 21;
  - b. Extending the age of original jurisdiction to include offenders who commit a crime at the age of 18 or 19;
  - c. Extending the maximum age of juvenile court jurisdiction to something beyond age 21.
- Judicial Discretion. The Task Force discussed various mechanisms to give the court additional discretion when imposing sentences that may result in an overly excessive sentence. Options considered included:
  - a. Allowing the Superior Court to use the age of an offender as a mitigating factor;
  - b. Allowing Superior courts to determine when to impose consecutive sentencing and enhancements; eliminate mandatory sentences for youth; and
  - c. Giving the court the discretion to reduce an offender's sentence when sentencing enhancements result in a clearly excessive sentence.

## Recommendations

- The court should have the discretion to impose an exceptional sentence below the standard range based on a consideration of the youth's age, sophistication, and role in the crime when the offender is under adult court jurisdiction for a crime committed as a minor.
- When sentencing enhancements apply to an offender in adult court for a crime committed as a minor, the court should have the discretion to determine when to impose consecutive enhancements (vs. concurrent).
- When sentencing enhancements apply to an offender in adult court for a crime committed as a minor, the court should have the discretion to reduce the sentence when the sentencing enhancements result in a clearly excessive sentence.

## IV. Juveniles in Courts of Limited Jurisdiction

Under Washington law, certain juvenile cases are referred to courts of limited jurisdiction rather than superior court pursuant to RCW 13.04.030(1)(e)(iii). If a juvenile is 16 or 17 and he or she is charged with a traffic, fish, boating, or game offense, or an infraction, then the case is referred to a court of limited jurisdiction. In such circumstances, the case is handled according to the same procedures applicable to adults.

There is an exception if the offense arises out of the same event or incident as another offense where the juvenile court has jurisdiction (for example, a misdemeanor traffic offense and a felony are charged in the same case). In such cases, the juvenile court adjudicates both matters.

- Courts of Limited Jurisdiction. Courts of limited jurisdiction include district and municipal courts. District courts are county courts and serve defined territories, both incorporated and unincorporated, within the counties. Municipal courts are those created by cities and towns. Except for certain civil cases heard in district courts, district and municipal courts only have jurisdiction over gross misdemeanors, misdemeanors and infractions.
- Traffic Offenses. Some traffic offenses are misdemeanors and gross misdemeanors under Title 46 RCW, "Motor Vehicles." This includes, for example:
  - Driving While Under the Influence (Gross Misdemeanor Only) (RCW 46.61.502)
  - Driver Under 21 While Consuming Alcohol or Marijuana (RCW 46.61.503)
  - Reckless Driving (RCW 46.61.500)
  - Negligent Driving (RCW 46.61.5249)
  - Driving While License Suspended or Revoked (RCW 46.20.338)

- Fishing and Wildlife Offenses. Fishing and wildlife offenses are misdemeanors and gross misdemeanors under Title 77 RCW, "Fish and Wildlife." This includes, for example:
  - Unlawful Taking of Protected Fish or Wildlife (RCW 77.15.130)
  - Unlawful Use of Poison or Explosives (RCW 77.15.150)
  - Unlawful Trapping (RCW 77.15.190)
  - Unlawful Transportation of Fish or Wildlife (RCW 77.15.290)
  - Engaging in Commercial Wildlife Activity without a License (RCW 77.15.600)
  
- Boating Offenses. Boating offenses generally include misdemeanors and gross misdemeanors under Chapter 79A.60, "Regulation of Recreational Vessels." This includes, for example:
  - Failure to Stop for Law Enforcement Officer (RCW 79A.60.080)
  - Operation of a Vessel in a Reckless Manner (RCW 79A.60.040)
  - Operation of a Vessel Under the Influence of Intoxicating Liquor, Marijuana, Or Any Drug (RCW 79A.60.040)
  
- Infractions. Traffic infractions are fairly common (including most violations of the rules of the road, like speeding). However, several violations of state law are considered infractions throughout the code.

According to data provided by the Administrative Office of the Courts, in 2013 there were 30,320 juvenile cases filed in courts of limited jurisdiction. 3,253 of those cases were criminal offenses, and 26,797 of those cases were infractions. To provide some context to those figures, there were 20,882 juvenile offender cases filed in juvenile court in 2013. Some of the most filed offenses in courts of limited jurisdiction for 16 and 17 year olds include driving without a license, reckless driving, driving under the influence, and driving while license suspended.

### **Task Force Discussion**

- The Task Force considered requiring the Department of Licensing to comply with orders sealing juvenile records. Brady Horenstein from the Department of Licensing responded to questions from Task Force members about the process of sealing records within the Department. The Task Force chose not to make any recommendation in this area.

## **V. Juvenile Parole**

JJ&RA provides a system of post-release parole services. The length of parole supervision is determined by the youth's assessed risk to re-offend and the youth's offense. The lengths of parole are:

- 20 weeks for Auto Theft Parole
- 6 months for high risk youth assigned in Intensive Parole
- 24 to 36 months for sex offender parole

Functional Family Parole (FFP) is the model for JJ&RA parole services. Based on Functional Family Therapy, FFP is a family- focused therapeutic intervention to improve communication, build hope, and engage families in understanding, supporting, and reinforcing positive change made by youth as a result of services received in JJ&RA residential facilities. A 2009 study by the University of Indiana showed a 15% reduction in felony recidivism among youth who received FFP services from an experienced parole counselor proficient in the FFP model service requirements.

Budget reductions in 2009 required major changes to agency policy and programs, including critical aftercare provided to youth leaving JJ&RA residential facilities upon their reentry to the community. Youth served in JJ&RA are about 5-8% of all youth involved in juvenile justice in the state who have the most serious offenses and complex treatment needs. Prior to 2010, all youth leaving JJ&RA received parole aftercare to support their reentry and address these needs. Without this critical support, JJ&RA found that critical reentry outcomes are negatively impacted by:

- Higher re-arrest rates: Youth released without parole services were 48% more likely to be re-arrested during the nine months following release; and
- Lower Employment Rates: Youth released without parole services were 55% less likely to be employed, and if they were, they made significantly less money than youth with parole aftercare.

**Recommendation:**

- The legislature should budget an additional \$2.4 million to provide parole aftercare services for all youth exiting JJ&RA, taking into account the savings associated with this investment.

## Summary of Task Force Recommendations

Nine voting members were present and voted on the final recommendations as follows: John Clayton, Senator Jeannie Darneille, Judge Janice Ellis, Judge Helen Halpert, Christie Hedman (WDA/WACDL), Representative Brad Klippert, Pete Peterson, Dan Satterberg, and Amy Seidlitz (DOC).

- Discretionary decline hearings should be restricted to juveniles age fourteen and older. (1 abstaining – J. Ellis; 2 opposed – Rep. Klippert; D. Satterberg)
- Given the disproportionate impact of exclusive adult jurisdiction and its ineffectiveness in reducing crime, exclusive adult jurisdiction should be eliminated. The court should hold a decline hearing in these circumstances and consider individualized criteria in determining whether to decline juvenile jurisdiction to the offender. (1 abstaining – J. Ellis; 3 opposed – Rep. Klippert; D. Satterberg; A. Seidlitz)

- The proposal submitted by JJ&RA and DOC regarding the custody of youthful offenders should be adopted. Specifically, the proposal provides that:
  - a. Juvenile offenders convicted in adult court would first be sent to DOC for calculation of an early release date and then sent to JJ&RA without further evaluation;
  - b. For offenders who will complete confinement prior to age 21, jurisdiction will transfer to JJ&RA for the term of confinement. DOC will be responsible for approving the offender release plan and supervision;
  - c. For offenders who cannot complete confinement prior to age 21, DOC will maintain jurisdiction during the term of confinement; and
  - d. In either scenario, some youthful offenders will be transferred to a DOC facility prior to age 21 if the youth is a danger to staff or other offenders.  
(2 opposed – Rep. Klippert; D. Satterberg)
  
- The court should have the discretion to impose an exceptional sentence below the standard range based on a consideration of the youth’s age, sophistication, and role in the crime when the offender is under adult court jurisdiction for a crime committed as a minor. (1 opposed – D. Satterberg)
  
- When sentencing enhancements apply to an offender in adult court for a crime committed as a minor, the court should have the discretion to determine when to impose consecutive enhancements (vs. concurrent). (1 opposed – J. Ellis)
  
- When sentencing enhancements apply to an offender in adult court for a crime committed as a minor, the court should have the discretion to reduce the sentence when the sentencing enhancements result in a clearly excessive sentence. (unanimous)
  
- The legislature should budget an additional \$2.4 million to provide parole aftercare services for all youth exiting JJ&RA, taking into account the savings associated with this investment. (unanimous)