

TRYING YOUTH AS ADULTS **FACT SHEET**

What does it mean to "try youth as adults?"

Since 1899, when a separate court for young people was created in Chicago, young people who broke the law were brought before the juvenile court. In rare cases, judges decided which youth were "not amenable to treatment" in the juvenile court. In these rare cases, the jurisdiction of the juvenile court was "waived" and the youth were sent or "transferred" to the adult criminal court. In more recent years, states have passed a number of laws to expand the mechanisms in which youth may be prosecuted in adult court.

How are youth "tried" as adults?¹

There are five major ways that youth can be prosecuted in adult court:

Judicial Waiver:

45 states allow juvenile court judges the discretion to have a youth's case tried in the adult criminal court.

Direct File or "Prosecutorial Discretion":

15 states allow prosecutors the discretion to have a youth's case tried in the adult criminal court.

Mandatory Waiver:

15 states require juvenile court judges to automatically transfer a youth's case to adult criminal court for certain offenses or because of the age or prior record of the offender.

Statutory Exclusion:

29 states automatically require a youth's case to be tried in the adult court based on the age of the youth, or the alleged crime, or both.

Age of Majority Statutes:

Three states automatically prosecute 16 and 17 year olds as adults – Connecticut, New York, and North Carolina. Ten states automatically prosecute 17 year olds as adults – Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin.²

¹ Snyder, Howard N., and Sickmund, Melissa. 2006. Juvenile Offenders and Victims: 2006 National Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention

² "Upper Age of Jurisdiction." Office of Juvenile Justice and Delinquency Prevention. 21 Nov. 2006

How many youth are tried as adults?

Despite the fact that many of these state laws were intended to prosecute the most serious offenders, most children who are tried in adult courts are there *no matter how minor their offense*. Estimates range on the number of youth prosecuted in adult court nationally. Some researchers believe as many as 200,000 children are prosecuted every year.

How does "trying youth as adults" impact youth?

Youth tried in the adult criminal court:

- Face the same penalties as adults, including life without parole;
- Will receive little or no education, mental health treatment, or rehabilitative programming;
- Will obtain an adult criminal record which may significantly limit their future education and employment opportunities;
- Are at greater risk of assault and death in adult jails and prisons with adult inmates;
- Will be more likely to re-offend than youth not exposed to the negative influences and toxic culture of the adult criminal punishment system.

What is the impact on youth of color?

Youth of color are most negatively affected by policies to try youth as adults. For example, in the Building Blocks for Youth report, *Youth Crime/Adult Time: Is Justice Served?*³ key findings reveal disturbing aspects in the transfer of youth, especially youth of color, to the adult criminal court. The findings show overrepresentation and disparate treatment of youth of color, and raise serious questions about the fairness and appropriateness of prosecuting youth in the adult criminal system.

Does trying youth as adults reduce crime and increase public safety?

Study after study has demonstrated that youth transferred to adult court are more likely to re-offend than those sent to the juvenile justice system for the same type of offense and with similar prior records. Of those youth who committed new crimes, those sent to adult court re-offended at around twice the rate of those sent to juvenile court.

<<http://ojjdp.ncjrs.org/ojstatbb/ezaco/html/upage.html>>.

³ Juszkiewicz, J. 2000. *Youth Crime/Adult Time: Is Justice Served?* Washington, DC: Prepared by Pretrial Services Resource Center for the Building Blocks for Youth Initiative.

Re-Arrest Rates Among Youth Sentenced in Adult Court, a 2001 analysis in Florida found that, even after controlling for race, initial charge, and age, youth receiving adult sanctions were 4.90 times more likely to re-offend, including technical violations, and 2.26 times more likely to re-offend, excluding technical violations (meaning that a new case was brought against the youth).⁴

A 2002 study, *Juvenile Transfer to Criminal Court Study: Final Report*, also found that youth receiving juvenile sanctions had lower recidivism rates than youth receiving adult sanctions. While comparing 315 “best-matched” pairs, they found that “49% of the youth transferred to adult court recidivated, compared with 37% of those who remained in the juvenile system.”⁵

Another study by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, published in 2006, also found lower recidivism rates while comparing youth in the juvenile justice system in New Jersey to youth transferred to the adult system in New York. “By using the two groups from the same metropolitan area, with similar economic opportunity, access to weapons, drug use, gang influences, and other influences on crime, any differences in rearrest between the two groups can be assumed to be due to the different court systems. The re-arrest rates were calculated after controlling for time on the street.” The results found that youth prosecuted in the adult courts in New York were 1.85 times more likely to be re-arrested for violent crimes than those prosecuted in the New Jersey juvenile courts, and 1.44 times more likely to be re-arrested for felony property crimes.⁶

Trying youth as adults does not reduce crime or increase public safety. In fact, youth tried as adults re-offend more than their counterparts in the juvenile justice system.

Prepared by the Campaign for Youth Justice
www.campaignforyouthjustice.org

⁴ Miami-Dade County Public Defender's Office. *Re-Arrest Rates Among Youth Sentenced in Adult Courts: Evaluation Report for Juvenile Sentencing Advocacy Project*. 15 Oct. 2001. 12 Oct. 2006
<http://www.pdmiami.com/JSAP_2001_Impact_Evaluation.pdf>.

⁵ Florida Department of Juvenile Justice. *A DJJ Success Story: Trends In Transfer of Juveniles to Adult Criminal Court*. 08 Jan. 2002. 05 Oct. 2006. pg. 2.

⁶ Issue Brief 5: the Changing Borders of the Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court. 2006. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. 21 Nov. 2006
<<http://www.macfound.org/atf/cf/%7BB0386CE3-8B29-4162-8098-E466FB856794%7D/ADJJTRANSFER.PDF>>.