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NEW REPORT: Legal loophole leads to explosion of youth in adult jails; Abuse and isolation rampant; Majority held for nonviolent crimes

Incarcerating youth as adults does not reduce crime and disproportionately impacts youth of color; New campaign calls on Congress to ban use of adult jails for youth under 18

Washington, D.C.—Despite a federal law that prohibits the incarceration of youth in adult correctional facilities, the number of young people held in jails across the country has exploded by 208 percent since the 1990s, according to a new report released today at the national press club by the Campaign for Youth Justice. States exploit a loophole in federal law, which was designed to protect youth from the proven dangers of adult jails but only applies to youth in the juvenile justice system. Congress is considering the reauthorization of Juvenile Justice and Delinquency Prevention Act (JJDP) this year, and advocates are asking that all youth under 18 be protected from incarceration in adult facilities.

“Federal law exists to protect youth from being locked up in adult facilities, but too many youth are falling through the cracks,” said Campaign for Youth Justice executive director Liz Ryan. “We want Congress to close the loophole, and make sure every young person is treated the same. No youth under 18 should end up in an adult jail before they’ve even had a trial—it’s bad for youth and doesn’t protect communities.”

The Consequences Aren’t Minor: The Impact of Trying Youth as Adults and Strategies for Reform presents research, statutory analysis, and case studies to highlight the problems with the policies and practices that treat young people as adults in the justice system. The study examines the laws and data in seven key states: **California, Connecticut, Florida, Illinois, North Carolina, Virginia, and Wisconsin**. An estimated two hundred thousand youth end up in the adult system each year, and 40 states allow or require the jailing of youth in adult facilities before they ever go to trial.

Youth prosecuted as adults are often held in adult jails for months or years, even though most are charged with nonviolent offenses, the report demonstrates. A 17-year-old girl in Wisconsin, for example, served 75 days as a in an adult jail for violating probation by stealing a neighbor’s bicycle. In Chicago, a 17-year-old boy was arrested for “armed robbery” after he took a schoolmate’s gym clothes, and was detained at the Cook County jail for several weeks.

Data shows that tens of thousands of young people end up in the adult system for non-violent offenses. In 2003, over half the youth in California’s adult system were prosecuted for misdemeanors and less than 30 percent received a prison sentence, suggesting that the majority of youth could be safely handled in the juvenile justice system. Of the 8,000 young people who enter Connecticut’s adult court system, the vast majority are arrested for non-violent offenses. In 2002 almost 14,000 17-year-olds were admitted to Wisconsin’s adult jails but only 15 percent of these youth were arrested for violent crimes.

Research—including studies funded by the U.S. Justice Department—show that sending youth to the adult criminal justice system doesn’t work to reduce crime. In one study comparing the recidivism of youth waived to criminal court in Florida with those retained in juvenile court, the research found that those in the “adultified” group were more likely to be re-arrested and to commit more serious new offenses; they also re-offended more quickly.

The laws are not evenly applied, with youth of color and those without access to adequate legal counsel more likely to end up in adult correctional facilities. Nationwide, three out of four young people admitted to adult prison in 2002 were youth of color. In Florida, Wisconsin, California, Connecticut, Illinois and North Carolina, youth of color represented nearly or more than 7 out of 10 youth in the adult justice system. Youth of color in Illinois make up just one-third of the general population, but in some jurisdictions make up 9 out of 10 young people in the adult system.

The report notes that juvenile judges are frequently excluded from the decision to prosecute youth as adults. Instead, prosecutors and state laws determine which youth end up in the adult system, no matter how minor the nature of the offense. In 15 states prosecutors rather than judges have the discretion to send youth to the adult system. In other states, laws have lowered the age by which a youth ends up in the adult court, or they are automatically transferred based on the nature of the charge.

"As a former prosecutor and head of the Office of Juvenile Justice and Delinquency Prevention, I have had the opportunity to witness first hand the impact of trying and sentencing youth as adults," said Shay Bilchik, director of the Center for Juvenile Justice Reform and Systems Integration at the Public Policy Institute of Georgetown University. "While I once supported these laws, their virtual unbridled use has negatively impacted too many young offenders with whom the juvenile justice system could have done a better job in rehabilitating and promoting public safety and youth development. States need to seriously consider reforming these laws, providing strict guidelines and reintroducing the role of the judge in making these jurisdictional determinations."

Jails are not designed to safely hold youth, who are either incarcerated in cells with adults, or separated in forms of isolation that can lead to depression or even suicide. Studies show that youth who are incarcerated in adult facilities are more likely to suffer abuse, become mentally and emotionally ill, and may be rearrested and commit more serious offenses than youth who benefit from the treatment, counseling and services available through the juvenile justice system. A recent Zogby poll conducted for National Council on Crime and Delinquency finds that 7 in 10 respondents felt that putting youth under age 18 in adult correctional facilities makes them more likely to commit future crime.

"The problem is that we are sending too many youth to the adult court who can be safely and more effectively handled in the juvenile justice system," said Ned Loughran, executive director of the Council of Juvenile Correctional Administrators. "We have more information and evidence on what works than ever before. Now, we just need to keep this population in the juvenile justice system so they can benefit from all the advances in services and treatment."

The report urges policy makers to take advantage of the shift in public opinion and new adolescent brain development research that inspired the Supreme Court to end the death penalty for minors. The report calls for a ban on the incarceration of youth in adult jails or prisons, and in the rare cases where the seriousness of a crime warrants consideration of prosecution in the adult system, a juvenile court judge should make the decision rather than prosecutors or state law.

"Young people need opportunities to turn their lives around, but these policies rob them of their futures," said Roneka Jenkins, who is 16 years old and attends Thurgood Marshall Academy. "We need to give youth the education and skills to get good jobs and contribute to society. That's best for everyone."

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The Campaign for Youth Justice (C4YJ) is dedicated to ending the practice of trying, sentencing and incarcerating youth under the age of 18 in the adult criminal justice system.

For more information about the report, the initiative, or the event at the National Press Club, visit: www.campaign4youthjustice.org or call Laura Jones at 202-558-7974, x307.