

# FACT SHEET

Views from the National Council on Crime and Delinquency

## Youth Under Age 18 in the Adult Criminal Justice System

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### *Negative Impacts on Youth Processed in the Adult System*

*In abolishing the death penalty for persons under age 18 in 2005, the US Supreme Court noted "...our society views juveniles...as 'categorically less culpable than the average criminal.'"<sup>3</sup> Research shows that youth under age 18 can benefit from the rehabilitative nature of the juvenile justice system.<sup>4</sup>*

- In most states, youth tried as adults are subject to harsher adult penalties, including life without parole, than youth processed in the juvenile system.
- Youth convicted in the adult system receive little or no rehabilitative programming, which is mandated in the juvenile system.
- Youth convicted as adults cannot as easily expunge their criminal record, which affects their future opportunities in education and employment.
- Youth are at greater risk of victimization and death in adult jails and prisons than in juvenile facilities.
- The practice of sentencing youth as adults most seriously impacts African American, Latino, and Native American youth.<sup>1</sup>
- Youth convicted in the adult system may be disenfranchised and denied military service.
- Youth held in adult facilities are more likely to recidivate than similar offenders remaining in the juvenile system.<sup>2</sup>

*This fact sheet presents statistics and issues related to youth under the age of 18 involved in the adult criminal justice system in the US, regardless of whether their state considers them adults or juveniles.*

## Minimum Age and Transfer Provisions Vary By State

At the threshold age of 18, youth are automatically under the jurisdiction of the adult criminal justice system in most states.

- Persons aged 16 are considered adults in three states—Connecticut, New York, and North Carolina.
- Persons aged 17 are considered adults in ten states—Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin.

*Most decisions to send a case to adult court are by legislative statute or the decision of the prosecutor (85%) rather than judicial discretion (15%), and the trend is for state legislators to further expand the ways in which youth may be transferred to the adult system.<sup>6</sup>*

Regardless of the threshold age, all states have provisions for processing youth under age 18 in the adult system, usually depending on the severity of the offense and the youth's offense history.

- Twenty-three states have no minimum age for transferring youth to adult court.
- For all other states, the minimum age is from 10 to 15.

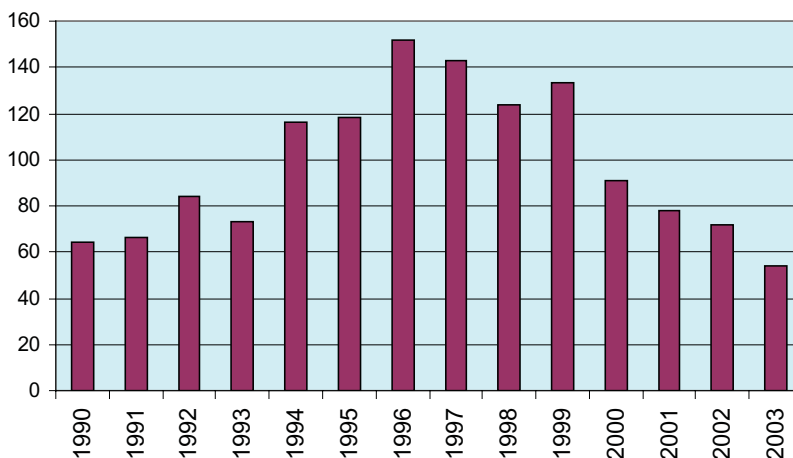
States use various combinations of statutes to transfer youth under age 18 to adult court.

- In 38 states there are certain cases, usually violent felonies, that *must* be transferred (Mandatory Judicial Waivers and Statutory Exclusions).
- Almost all states (45) allow Discretionary Judicial Waiver transfers (discretion of the judge).
- There are 15 states that allow Direct Filing (discretion of the prosecutor).
- In 15 states, certain cases are designated as Presumptive Waivers (A youth has to show cause in order to avoid transfer).
- More than half of states (26) allow some form of Blended Sentencing (a joint juvenile/adult disposition usually with the adult sentence suspended).<sup>5</sup>

## Life Without Parole

There were an estimated 2,225 youth under age 18 serving sentences of life without parole in 2002. The number of admissions of youth sentenced to life without parole has dropped since a high in 1996. Most of these youth serve their time in adult facilities.<sup>7</sup>

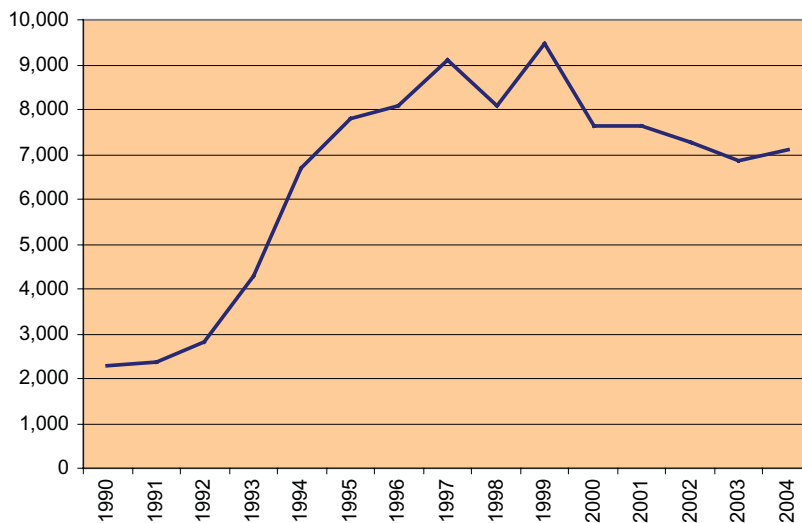
*Youth Under Age 18 Admitted to Prison with a Sentence of Life Without Parole*



## Incarceration in State Jails

The number of youth under age 18 in adult jails has been dropping since 1999. The proportion of youth under age 18 among total jail populations is also dropping. Youth under age 18 accounted for 1.4% of the total population of state jails in 1994, 1.2% in 2000, and 1% in 2004.<sup>8</sup>

*State Jail Inmates Under Age 18*



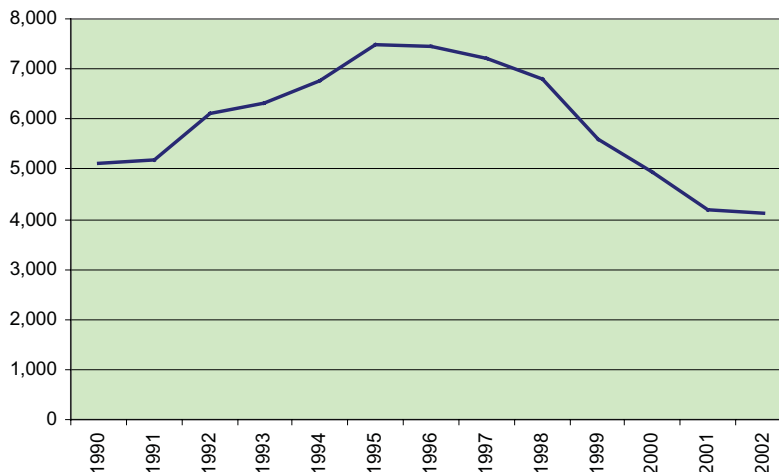
*Federal prisons held 39 inmates under age 18 in 1990, but none in 2004. Federal law requires that all persons under age 18 convicted of a federal offense be placed in suitable juvenile facilities, NOT in adult facilities.*

Source: Snyder, H.M. & Strickland, M. (2006).

## Incarceration in State Prisons

New admissions of youth under age 18 to state prisons have been dropping since the mid-1990s.<sup>9</sup>

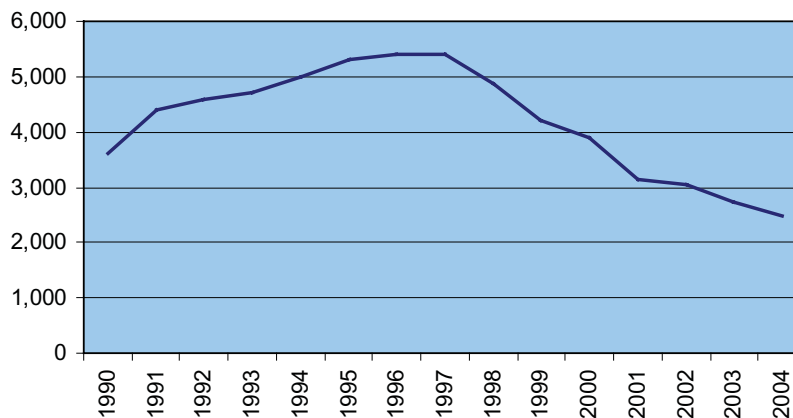
*New Admissions to State Prisons of Youth Under Age 18*



*“One in ten juveniles incarcerated on any given day in the US will be sent to an adult jail or prison.”<sup>11</sup>*

The number of youth under age 18 incarcerated in state prisons has been dropping since the mid-1990s. Girls account for approximately 4% of youth under 18 in adult prisons.<sup>10</sup>

*Youth Under Age 18 in State Prisons (One Day Count)*



Source: Snyder, H.M. & Strickland, M. (2006).

The proportion of youth under age 18 among total prison populations is also dropping. Youth under age 18 accounted for 2.3% of the total population of state prisons in 1996, which is more than double the proportion (1.1%) in 2002.

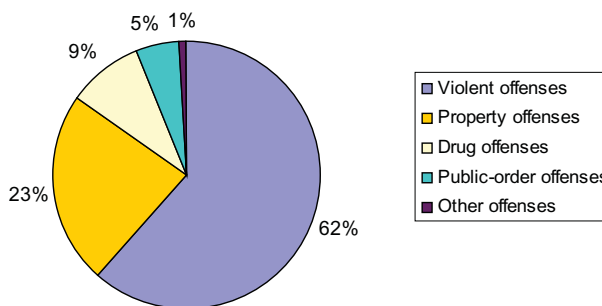
Since 1995, the total prison population has risen 16%, while the number of persons under age 18 in prison has dropped 45%. The large increases in the overall prison populations probably account for the drop in proportion of youth under age 18 in state prisons.

Most youth committed to adult state prisons were convicted of a violent offense, but all types of offenses are represented.<sup>12</sup>

**Jail vs. Prison**

*Usually, jails are local facilities that house defendants awaiting adjudication or persons convicted of a misdemeanor and serving sentences of a year or less. Prisons can be state or federal and generally house felons serving a sentence of more than one year.*

*Most Serious Offense for Youth Under Age 18 in State Prisons*



Source: Hughes, T. (2002).

The most serious offense for youth under age 18 committed to state prisons is more likely to be a violent offense and less likely to be a drug or public order offense than for older offenders (2002).

Just 24 youth under age 18 released from prison were returned for parole violations in 2002, but most are older than 18 upon release.

## *Felony Defendants in the 75 Largest US Counties*

Felony defendants under age 18 have less serious criminal histories than older defendants.

Sixty-six percent of felony defendants under age 18 had no prior arrests compared to 39% of defendants aged 18 to 20 and less than 25% for older defendants.

Six percent of felony defendants under age 18 had a prior felony conviction, compared to 20% for 18 to 20-year-olds and 36% or more for older defendants.

African Americans accounted for 55% of felony defendants under age 18.

African American males (50%) accounted for more than 3 times the percentage of white males (15%), and twice the percentage of Hispanic males (25%) under age 18.<sup>13</sup>

## The Juvenile Justice and Delinquency Prevention Act

*The Juvenile Justice and Delinquency Prevention Act, originally passed in 1974, prevents youth under age 18 from being held in adult facilities unless the state defines "adult" as younger than 18, or if the youth was convicted of a felony or is awaiting trial for a felony offense. In certain circumstances for which the Act makes exceptions, such as for short periods in rural areas or while awaiting a court appearance, juvenile inmates are to be kept completely separate from adults.*

## Notes

<sup>1</sup> Building Blocks for Youth, Transfer Of Youth To The Adult Criminal Justice System. Accessed 04/09/2006 at <http://www.buildingblocksforyouth.org/ycat/transfacts.html>.

<sup>2</sup> Redding, R.E. (2000). Recidivism rates in juvenile versus criminal court. Juvenile Justice Fact Sheet. Charlottesville, VA: Institute of Law, Psychiatry, & Public Policy, University of Virginia.

<sup>3</sup> US Supreme Court, Roper v. Simmons, 2005.

<sup>4</sup> Mendel, D. (Spring, 2003). A Matter of Choice. Forks in the Road for Juvenile Justice. Advocasey, 5, 1. Baltimore, MD: Annie E. Casey Foundation.

<sup>5</sup> Griffin, P. (2003). Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws. Pittsburgh, PA: National Center for Juvenile Justice. Accessed 04/06/2006 at <http://ncjj.servehttp.com/NCJJWebsite/pdf/transferbulletin.pdf>.

<sup>6</sup> Juszkiewicz, J. (2000). Youth Crime/Adult Time: Is Justice Served? Pretrial Services Resource Center. Accessed 04/06/2006 at <http://www.buildingblocksforyouth.org/ycat/index.html>.

<sup>7</sup> Adapted from Amnesty International, Human Rights Watch (2005). The Rest of Their Lives: Life Without Parole for Child Offenders in the United States. Accessed 04/06/2006 at <http://www.amnestyusa.org/countries/usa/clwop/report.pdf>.

<sup>8</sup> Snyder, H.M. & Strickland, M. (2006). Juvenile Offenders and Victims: 2006 National Report. Washington, DC: US DOJ, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Jones, G. & Connelly, M. (2001). Update on Blended Sentences. State Commission on Criminal Sentencing Policy. Accessed 04/09/2006 at <http://www.msccsp.org/publications/blended.html>.

<sup>12</sup> Hughes, T. (2002). National Corrections Reporting Program, 2002. US DOJ OJP Bureau of Justice Statistics. Accessed 04/09/2006 at <http://www.ojp.usdoj.gov/bjs/data/ncrpm02.zip>

<sup>13</sup> DeFrances, C. (2002). Felony Defendants in Large Urban Counties, 2002. US DOJ OJP Bureau of Justice Statistics. Accessed 04/09/2006 at <http://www.ojp.usdoj.gov/bjs/abstract/fdluc02.htm>.